



12/9312

Post implementation review

Marriage Amendment Regulations 1 and 2 of 2009

This is a post-implementation review of the Marriage Amendment Regulations 2009 No 1 and Marriage Amendment Regulations 2009 No 2 as required by the Australian Government's best practice regulation requirements.

Background

The Attorney-General's Department (the department) registers and regulates marriage celebrants registered under the Australian Government Marriage Celebrants Program (the Program) in accordance with the *Marriage Act 1961*.

The Program is operated under subdivision C of Division 1 of Part IV of the *Marriage Act 1961* and Division 1A of Part III of the *Marriage Regulations 1963*.

The Program was established in 1973 and various reforms have been made since to streamline and regulate an important industry. In 2003, major reforms were made to the Marriage Act and the Program to create a streamlined registration process with an Attorney-General's departmental officer registering new celebrants - the Registrar of Marriage Celebrants. At this time, a minimum training qualification was introduced, as was a requirement for all Commonwealth-registered celebrants to undertake five hours of OPD per year. Between 2000 and 2009, the number of marriage celebrants increased from 3,623 to 8,546. At the time of writing, there are approximately 10,500 Commonwealth-registered marriage celebrants.

Marriage celebrants fulfil an important role in the community, one that carries many responsibilities including legal ones. It is essential for marriage celebrants to maintain current knowledge and skills. Marriage celebrants do this through the training they receive before they are registered and the completion of their annual ongoing professional development (OPD).

To be entitled to be registered as a marriage celebrant a person must be:

- 18 years or over
- have all the qualifications and/or skills determined in writing to be necessary by the Registrar of Marriage Celebrants in accordance with regulations made for the purposes of the Act, and
- be a fit and proper person.

In 2009, two sets of amendments were made to the Marriage Regulations to increase the level of qualification required for initial registration as a Commonwealth marriage celebrant to a full Certificate IV in Celebrancy from 3 February 2010, and to streamline the delivery of OPD for registered marriage celebrants from 1 January 2010. Further detail about the purpose and scope of the amendments is outlined below.

In addition to the Regulation changes, to support the policy objectives of the 2009 amendments, and in continuation of reforms initiated at that time, the department implemented a number of other measures to improve and enhance the quality of training and professional development for marriage celebrants. While these are also discussed briefly below, the focus of this review is on the changes implemented through the regulation amendments.

This review is independent of the current reforms to the Marriage Celebrants Program, including the introduction of cost recovery for marriage celebrants from 1 July 2013.

Overview of Amendments

Marriage Amendment Regulations 2009 (No.1)

The purpose of the *Marriage Amendment Regulations 2009 (No.1)* (the No.1 amendments) was to amend the Marriage Regulations to prescribe a new minimum qualification for initial registration as a marriage celebrant from 3 February 2010, the Certificate IV in Celebrancy.

The key objectives of the No.1 amendments were to:

- recognise the importance of robust training for marriage celebrants given the legal responsibilities placed upon them, and accordingly
- introduce a new minimum qualification for aspiring marriage celebrants in accordance with the Community Services and Health Industry Skills Council's (CSHISC) recommendation following its review of training for aspiring celebrants.

The amendments also provided for the Registrar of Marriage Celebrants to issue a determination listing the units that the Registrar determines necessary for registration as a marriage celebrant. These are known as the four marriage celebrancy units. The four marriage celebrancy units are listed in the *Marriage (Celebrancy qualifications or skills) Amendment Determination 2009*. The units specifically address the legal and other knowledge required to conduct marriages in accordance with the Marriage Act and Marriage Regulations.

Transitional provisions were included to prevent disadvantage to aspiring celebrants who were undertaking training at the time of the amendments. The transitional provisions recognised that people enrolled in training needed time to complete their course and should be entitled to have their training recognised.

Marriage Amendment Regulations 2009 (No.2)

The purpose of the *Marriage Amendment Regulations 2009 (No.2)* (the No. 2 amendments) was to specify the requirements that may be determined by the Registrar of Marriage Celebrants as necessary for delivering the four marriage celebrancy units of the Certificate IV in Celebrancy. The Registrar's requirements for delivering those units are set out in the *Marriage (Celebrancy qualifications or skills) Amendment Determination 2009*.

To address the need for effective and high quality OPD, the No.2 amendments also provided for a revised approach to the delivery of professional development for marriage celebrants. The revised approach to OPD was also intended to align professional development with the new Certificate IV in Celebrancy. The changes to OPD delivery occurred from 1 January 2010.

In addition, the No. 2 amendments removed the requirement for marriage celebrants to provide an annual return to the Registrar of Marriage Celebrants each year detailing their completed OPD. This information is now obtained directly from the OPD providers. The restriction preventing a marriage celebrant from undertaking an activity he or she has undertaken in the previous five years was also removed to increase flexibility for both marriage celebrants and OPD providers.

To encourage all registered celebrants to update their skills and knowledge through the undertaking of recent training, the amendments included an exemption from OPD for up to three years if they obtained the Certificate IV in Celebrancy qualification either before or after they are registered. The exemption recognised the fact that a marriage celebrant had undertaken recent training.

The No.2 amendments also clarified the transitional provisions in the No.1 amendments to provide certainty to aspiring celebrants about recognition of their qualification.

The case for intervention: issues that lead to the 2009 amendments to the *Marriage Regulations 1963*

1. Training for aspiring marriage celebrants

Training and professional development are key activities undertaken by aspiring and registered marriage celebrants. Appropriate training and professional development ensures that marriage celebrants maintain high professional standards including compliance with their obligations under the Marriage Act.

The need for change

Since the 2003 reforms to the Marriage Act, aspiring marriage celebrants have been required to complete nationally accredited training before applying to the department for registration as a Commonwealth marriage celebrant. Following the introduction of this qualification, marriage celebrant associations and individual marriage celebrants had expressed general concern to the department about the quality of training for aspiring celebrants and in turn, the overall quality of new celebrants. This was emphasised as the numbers of celebrants grew significantly between the reforms in 2003 and the introduction of these 2009 amendments with the increased qualification. The growth in numbers can be partly attributed to the expiry in 2008 of the five year cap on registrations contained in the Marriage Act.

Anecdotally, issues raised included that courses were not long or rigorous enough, legal obligations were not adequately covered, information provided during training was inaccurate and that assessment of students' competencies was minimal. Concern had also been expressed that the now superseded qualification, the 'Certificate IV in Marriage Celebrancy', contained inappropriate units. Marriage celebrants registered before 2003 and before the introduction of formal training for marriage celebrants, were among those who had expressed concern about training for aspiring celebrants.

The department had similar concerns based on its experience with assessing applications from aspiring celebrants and handling enquiries from already registered celebrants. The enquiries received by the department, demonstrated that some students were not receiving adequate training in or an

understanding of their legal obligations and were not appropriately developing the skills and knowledge needed to perform the role of a marriage celebrant.

Legal significance of the role of marriage celebrants

Marriage celebrants have a number of significant legal responsibilities when conducting marriages. They must satisfy themselves as to the identity of each party they marry. Further, a new identity document, a marriage certificate, is created that is dependent on the individual celebrant's care and expertise in verifying individuals' identities. Other significant and potentially complex legal responsibilities include ensuring the full and free consent of each of the parties to a marriage, that the parties are aged over 18 years and not closely related and that neither party is currently married. Fulfilling these obligations often requires celebrants to examine and assess foreign identity, marriage and divorce documents. Celebrants need to also ensure that the parties' marriage vows meet minimum requirements, prepare marriage certificates (which are identity documents) and send marriage certificates and other documents to registering authorities following the marriage ceremony.

For example, the adequacy of vows is a legal obligation of registered marriage celebrants that requires understanding of the Act. Under the Act marriages may be invalid if they do not meet specific legislative requirements for solemnisation. The use of vows in marriage ceremonies is considered a key element in establishing consent before witnesses.

A lack of understanding of legal obligations and requirements on the part of celebrants may have a significant effect on the marrying couple and the community. For example, poor understanding of legal obligations may have a significant impact on the marrying couple in relation to complex issues such as succession, identity, children and divorce. The potential consequences could be quite serious if a celebrant does not register or solemnise a marriage correctly – for example, if legal requirements are not met, questions about the validity of a marriage may arise. Couples are entitled to rely on the official Registry of Births, Deaths and Marriages marriage certificate that the marriage was registered and solemnised in accordance with the Marriage Act. There are also consequences of a celebrant not providing a professional service and meeting the needs of their clients. Mistakes in the conduct of the ceremony cannot be rectified by having a second ceremony. People are entitled to expect that their marriage celebrant knows what they are doing, are well versed in the legal aspects of the marriage and can be relied upon to provide a professional service.

There are also penalties under the Marriage Act for a celebrant who does not solemnise a marriage in accordance with the legal requirements, such as complying with the notice requirements, or ensuring the validity of the marriage by checking that the parties are free to marry. This includes fines and imprisonment.

CSHISC review of now superseded qualification, Certificate IV in Marriage Celebrancy

From September 2003 until January 2010, the Marriage Regulations prescribed the required training for aspiring marriage celebrants to be one unit of competency: 'Plan, Conduct and Review a Marriage Ceremony', from the now superseded 'Certificate IV in Marriage Celebrancy'. That qualification was part of a broader training package developed under the Australian Quality Training Framework by the then Community Services and Health Training Authority (now CSHISC) in the 1990s, with input from marriage celebrant representatives and the department.

The CSHISC, in consultation with industry, routinely reviews its training packages to ensure that they continue to meet the needs of the workplace. In the late-2000s, an external two year review of marriage celebrancy training by what is now CSHISC identified that improvements could be made to then existing training required for registration as a marriage celebrant. Following this review of the

training package, in 2009 the Certificate IV in Marriage Celebrancy was replaced by the Certificate IV in Celebrancy.

The review identified that a Certificate IV level qualification, rather than one unit of competency, is appropriate for those undertaking a role that holds a position of trust within the community and that involves the application of legal requirements in a largely unsupervised capacity. The Certificate IV in Celebrancy is broader than its predecessor, with marriage celebrancy a specialised stream within the qualification. The review also identified a need for trainers delivering marriage celebrancy units to comply with certain prerequisites, including the use of key materials on the legal aspects of a marriage celebrant's obligations.

The two year review involved consultation between the CSHISC, representatives of the marriage celebrant industry, providers of training to aspiring marriage celebrants and the department. The consultation process endorsed more extensive training and a qualification that would equip people for other types of celebrancy work. The peak body for marriage celebrant associations, the Coalition of Celebrant Associations, supported the new qualification.

As a result of the outcome of the review of the training package, and taking into account the views of all of the review participants, it was decided that the appropriate level of qualification for aspiring marriage celebrants should be increased to the Certificate IV in Celebrancy. To remain consistent with the views of the industry skills council and the community, the amendments to the Regulations implemented the outcome of the CSHISC review of the training package. The outcome of the review was timely given the concerns that had been generally raised across the industry that marriage celebrants required more robust training about their legal and professional obligations.

Through the issue of the *Marriage (Celebrancy qualifications or skills) Amendment Determination 2009*, the Registrar of Marriage Celebrants determined the four marriage celebrancy units necessary for registration as a marriage celebrant; the qualifications, skills, training and experience requirements for trainers delivering those units; and the materials required to deliver those units. The four marriage celebrancy units and the delivery requirements are set out in **Attachment A**.

2. Ongoing professional development for registered marriage celebrants

Since 2003, the Marriage Act requires all Commonwealth-registered marriage celebrants to undertake a minimum of five hours of OPD each year as follows:

- marriage celebrants must undertake at least two activities per year totalling at least five hours (made up of compulsory and elective activities);
- the Registrar of Marriage Celebrants can nominate a maximum of two compulsory activities each year and the list of activities published on the department's website; and
- celebrants may seek an exemption from OPD in a particular year due to exceptional circumstances.

The 2009 amendments did not amend these requirements, but created a more streamlined approach to the delivery of OPD activities.

The need for change

Prior to the 2009 amendments, with the exception of the compulsory activity, the provision of OPD was approved by the department on an ad hoc, paper based, activity by activity basis upon application to the Registrar by anyone wishing to deliver a certain OPD activity that they had developed. The department

expended significant resources assessing proposed activities. Other than the content for the compulsory activity involving the legal obligations of a marriage celebrant, the department has no particular expertise in the provision of OPD and it was an inefficient and onerous approval process for both the department and the OPD provider. The process was also unable to address issues relating to the quality of activities and their delivery.

Following a six month consultation process undertaken by the department, from 2008 to early 2009, involving providers of professional development, registered marriage celebrants and representatives of the marriage celebrant industry, a revised approach to the delivery of OPD was developed. The approach involved the selection of a panel of OPD providers through an open tender selection process. The No.2 amendments implemented this new OPD panel provider process.

The aim of the revised approach was to improve the quality and efficiency of OPD delivery and to align professional development for registered marriage celebrants with the newly developed pre-registration training, the Certificate IV in Celebrancy. It also provided the opportunity for marriage celebrants who did not undertake pre-registration training to update their knowledge and skills. It also simplified the process for celebrants to identify relevant OPD activities and discontinued celebrant reporting requirements to the department.

Consultation

Consultation prior to regulatory change

Prior to the commencement of the 2007 CSHISC review and the No.1 and No.2 amendments, the department notified marriage celebrant associations and training providers about that CSHISC review to give them an opportunity to participate.

Formal consultations with OPD providers and celebrant associations to develop an improved framework for OPD delivery were undertaken by the department.

Consultation following regulatory change

Following the No.1 and No.2 amendments, feedback about delivery of the Certificate IV in Celebrancy generally and OPD has been provided to the department through the monitoring mechanisms specifically established for this purpose. Feedback has also been provided through formal meetings with marriage celebrant representatives.

In August 2012, the department specifically sought feedback on the 2009 No.1 and No.2 amendments from representatives of the marriage celebrant industry, including registered training organisations with the Certificate IV in Celebrancy within their teaching scope. Specific feedback was sought via a survey questionnaire. An analysis of the feedback received is at **Attachment B** together with the background information provided by the department.

In response to the statement, 'overall, the introduction of the Certificate IV in Celebrancy has had a positive impact on the marriage celebrancy industry' 45 per cent of respondents indicated they strongly agreed or agreed, compared to 24 per cent who disagreed (of which 3 per cent strongly disagreed) and 28 per cent who did not express a view. Feedback has also highlighted that while the units for the Certificate IV in Celebrancy provide aspiring celebrants with appropriate skills and training to conduct marriage celebrancy work, there is inconsistency in the quality of training being offered. It was also highlighted that there is varied and inconsistent knowledge and skills of trainers in the four marriage celebrancy units.

Suggestions were also put forward about how the department could better achieve the objectives of the 2009 regulation changes which were aimed at improving training and OPD. The suggestions included: improving the quality of training material and assessment tools used by some training organisations; increase the department's involvement in the regulation of training organisations (registered training organisations are regulated by the Australian Skills Quality Authority (ASQA) or in some cases the state equivalent); ensure trainers of the Certificate IV in Celebrancy have appropriate skills, knowledge and experience as a marriage celebrant to enable them to draw on their experience when they train aspiring celebrants; conduct interviews and pre-appointment assessment of aspiring marriage celebrants to test legal knowledge; assessment / completion of work for OPD irrespective of delivery mode to ensure consistency across face to face, distance and online OPD.

Feedback is ongoing. Different views have been expressed about how the objectives of the 2009 amendments aimed at improving training and OPD could be supported. For example, 45 per cent of respondents disagreed (of which 19 per cent strongly disagreed) that the requirements set by the Registrar of Marriage Celebrants are appropriate for delivering the four marriage units. However, it should be noted that at the same time, 43 per cent of respondents agreed (of those 14 per cent strongly agreed) that the requirements, set by the Registrar, for trainers delivering the four marriage celebrancy units of the Certificate IV in Celebrancy are appropriate because they enable the Registrar to be satisfied that the four marriage celebrancy units are being delivered by persons with practical experience in marriage celebrancy work. This is consistent with earlier comments which highlighted the importance of ensuring that trainers of the Certificate IV in Celebrancy have appropriate skills, knowledge and experience as a marriage celebrant. These responses were provided by both trainers and non-trainers of the Certificate IV in Celebrancy and suggest that further work may be required in relation to trainer requirements for the delivery of the four marriage units.

Impact analysis: Costs and benefits: Marriage Amendment Regulations 2009 (No 1)

While there have been some benefits (outlined below) following the No 1 amendments, there may still be further work to be done. It is also difficult to appropriately measure the benefits given that the initial problem – that anecdotally, celebrants were not receiving adequate training to meet their legal qualifications – was not easily measured through data and statistics. For example, the department plays a role in handling complaints and reviewing celebrant performance, however the day-to-day work of marriage celebrants, including meeting with clients and performing ceremonies is not routinely supervised by the department.

Consultation revealed that there is no general consensus about whether the objectives of the 2009 amendments have been achieved. It is also too early to know what overall impact it has had on the industry. The increase in pre-registration training from a single unit of competency to a full Certificate IV in Celebrancy has benefited the industry in that it has provided the opportunity for aspiring celebrants to be better equipped to work in the industry with a better understanding of their legal and professional responsibilities. However, feedback has highlighted that the variation in the quality of training has impacted on the overall benefit. This has meant that the department has had to focus on working more closely with the ASQA to ensure that the quality of the delivery, rather than the actual information being delivered, is of a higher quality.

The department is currently working to reform the Program from 1 July 2013, including the introduction of cost recovery for all Commonwealth-registered marriage celebrants. These reforms will build upon existing training by strengthening the application process including the introduction of pre-registration testing of applicant's legal knowledge and telephone and Skype interviews. These new processes incorporate recommendations through separate consultations on the Program reforms from July 2013,

as a way to further strengthen processes to ensure that celebrants are adequately equipped to handle their legal obligations prior to entry into the industry.

Benefits and costs for aspiring marriage celebrants

The department has been monitoring the effect of the increased qualification requirements on aspiring celebrants. However, given it has only been in place for less than three years, it is too soon to know the overall impact it has had on the industry. At the time of writing, only 10 per cent of registered marriage celebrants had undertaken the increased qualification.

In the four months following the introduction of the Certificate IV in Celebrancy (February 2010), the number of applications received by the department decreased considerably. This decrease was not surprising given the training year commences around the same time that the new qualification was introduced. The number of applications received subsequently decreased – for example, there were approximately 276 applications in December 2009 and 33 applications in December 2010. The number of applications received by the department has remained steady since at an average of 50 per month.

The Certificate IV in Celebrancy course is a more rigorous and demanding marriage celebrancy qualification and will take longer to complete than the superseded single unit of competency. However, delivery of the qualification differs depending on the trainer and the way it is delivered (in an intensive delivery or over a period of time). One RTO indicates that it would take approximately 585 hours to complete all 13 units that make up a Certificate IV in Celebrancy. Another indicates that it takes between 12 and 24 days to complete the qualification in the classroom compared to 35 hours for the superseded single unit of competency. A survey participant noted that while the course is a great start for aspiring celebrants to understand the complexity of being a marriage celebrant, some RTOs ‘rush through their students (5 days) and others take considerable time (14-15 weeks), so there is no consistency in the delivery of material and assessments’.

The cost of a Certificate IV in Celebrancy also varies significantly between RTOs and depends on the delivery mode. For example, one RTO charges approximately \$895 to complete the Certificate IV in Celebrancy online and another, \$3,830 for face to face, classroom delivery. The department understands that the cost of completing the superseded unit of competency was around \$1,350. This has meant an increased cost to aspiring celebrants but is reflective of the increased units and the skills and knowledge acquired.

Benefits and costs for registered marriage celebrants

The No. 1 amendments have had minimal or no impact on registered marriage celebrants. Registered marriage celebrants are not required to complete the Certificate IV in Celebrancy.

There is no cost to registered marriage celebrants unless they choose to undertake the Certificate IV in Celebrancy.

Less than 5% of registered marriage celebrants are either exempt or eligible for the exemption from OPD for up to three years on the basis of having completed the Certificate IV in Celebrancy.

Benefits and costs for Registered Training Organisations

The department considers there has been minimal impact on RTOs as a result of the Certificate IV in Celebrancy becoming the minimum qualification required for registration as a marriage celebrant.

Since 2003, training for aspiring marriage celebrants has been provided by RTOs. RTOs are registered and regulated by either or both the national and/or state and territory regulators. At the time of the

2009 amendments to the Regulations, RTOs operated under the Australian Quality Training Framework 2007 (replaced by the Standards for NVR Registered Training Organisations 2011).

Under the Australian Quality Training Framework 2007, RTOs were required to manage their teaching scope to transition from superseded training packages within 12 months of their release so that RTOs only delivered currently endorsed training packages. The introduction of the Certificate IV in Celebrancy as the minimum training requirement for registration as a marriage celebrant accorded with this timing requirement for superseded qualifications in the AQTF 2007 and which RTOs were required to comply with as part of their registration as a training organisation delivering nationally accredited training.

While there may have been some increased costs for RTOs to align their training package with the new qualification, they had a lead in time of 12 months to become compliant.

In November 2009, prior to the introduction of the Certificate IV in Celebrancy as the minimum qualification required for registration, there were 31 RTOs with the superseded qualification within their teaching scope. However, a smaller number actually offered the entire qualification, instead focussing on offering only the single unit of competency previously required for registration as a marriage celebrant. As at August 2012, there are 18 RTOs listed on the national register (training.gov.au) as offering the Certificate IV in Celebrancy. It is unclear as to whether all of the 18 RTOs currently listed actually deliver the full qualification. An analysis of applications for registration as a marriage celebrant received by the department between 3 February 2010 and July 2012 shows that applicants received their Certificate IV in Celebrancy qualification from 15 of the 18 RTOs. Of those, the majority (approximately 80%) received their qualification from only one RTO.

Benefits and costs for members of the public / marrying couples

The department envisages that well trained marriage celebrants provide the public with a professional and competent service.

Recent feedback from the marriage celebrant industry demonstrated varying views as to whether the introduction of the Certificate IV in Celebrancy had a positive impact on marrying couples, with 33% either agreeing or strongly agreeing that it has had a positive impact. When asked to provide general comments, survey participants generally felt that there were too many celebrants in the industry which could impact on their level of professionalism. However, the No. 1 amendments introduced increased training, which actually reduced the number of applicants and therefore the number of new celebrants in the industry.

While the number of celebrant registrations has reduced since the introduction of the Certificate IV in Celebrancy as the minimum qualification, there has been no impact on the number of marriage celebrants available to marrying couples. In fact, there are more celebrants to choose from given that prior to the introduction of amendments No.1, as at the end of 2009, there were 8,546 Commonwealth-registered marriage celebrants and today there are 10,509.

The Australian Bureau of Statistics reports an increase in the marriages solemnised by civil marriage celebrants (as opposed to religious celebrants) with approximately 71 per cent of marriages in 2010 solemnised by civil celebrants compared with 55 per cent in 2003. This reflects a market demand for civil marriage celebrants and an argument for well-trained civil celebrants who effectively discharge their legal obligations.

The department does not collect information about the cost of weddings in Australia or the fees charged by celebrants. Therefore, it cannot comment on how the cost of obtaining the qualification is passed onto marrying couples.

Benefits and costs for Government

As a result of the increase in the minimum training requirement for registration, the department was required to introduce new administrative processes with regard to applications. These changes incurred negligible costs and were met within existing resources.

The introduction of the minimum qualification also reduced the numbers of applications received quite significantly which has reduced the workload and resources required of the department in administering its legislative obligation to assess and approve the registration of aspiring celebrants.

Since the introduction of the Certificate IV in Celebrancy, the number of phone and email enquiries received by the department has decreased by approximately 27 per cent. It is difficult to determine whether the decline can be fully attributed to the increased qualification as not all marriage celebrants have undergone this training. The department has also introduced updated guidance material to celebrants which may have also contributed to the decrease in enquires because the information is readily available and accessible. The department does not currently have the technology to identify whether there have been changes in the nature of enquiries, although anecdotally it appears that there are less complex legal questions than there was five years ago. Through the introduction of new technology from July 2013, such data will be able to be collected and further work done to identify problem areas and increase efficiencies in the provision of information and streamlining of queries.

Impact analysis: Costs and benefits: Marriage Amendment Regulations 2009 (No 2)

The impact of the No. 2 amendments has been beneficial. These amendments were minor and aimed at streamlining a process to the benefit of celebrants, OPD training providers and the department. This objective has certainly been achieved. Recent consultation on this specific issue, and more broadly on upcoming Program reforms in 2013, have highlighted that the OPD system requires some further change to ensure that OPD is useful for celebrants, no matter what their experience and knowledge. The department intends to work with industry in 2013 to ensure that the full benefit of the amendments can be realised and that OPD is useful and beneficial for all celebrants through a continued, streamlined system.

Benefits and Costs for aspiring marriage celebrants

The No.2 amendments have no impact on aspiring marriage celebrants. Aspiring marriage celebrants are not required to complete OPD before they are registered.

Benefits and costs for registered marriage celebrants

The complexity of the OPD process has been reduced for existing celebrants. There are currently three providers of OPD on the panel offering subjects approved by the Registrar of Marriage Celebrants. These can be easily found by celebrants on the AGD website. The OPD panel reports directly to the department on marriage celebrants' completion of OPD, thus reducing celebrants' individual reporting requirements. The process for selecting the panel of providers incorporated matters such as cost to marriage celebrants and availability to all categories of marriage celebrants located across the country including in rural and remote areas. OPD is available nationally via face-to-face, distance education and interactive online delivery.

The removal of the requirement for marriage celebrants to submit an Annual Return relating to their completion of OPD activities each year has decreased celebrants reporting obligations to the department. The restriction preventing a marriage celebrant from undertaking an activity he or she has

undertaken in the previous five years was also removed to increase flexibility for both marriage celebrants and OPD providers.

The cost of OPD varies between the three providers depending on whether it is delivered face-to-face, during a conference (which is heavily discounted), by distance or online. It is also usually packaged into one five hour training session, rather than several smaller units spread across the year to make up five hours. OPD delivery is streamlined through the use of selected providers as they are able to introduce infrastructure across the board to minimise overall costs to celebrants. Since the amendments, the price of undertaking five hours of OPD is approximately between \$150 and \$200, depending on the method of delivery. Since 2010, the department has developed a one hour compulsory topic and the Panel providers have delivered that and an additional four hours of electives.

Prior to the amendments, OPD was delivered by various providers who might have provided one or two subjects each year, and may not have had the infrastructure to keep costs to a minimum. Celebrants may have also participated in several short activities across the course of the year to make up their five hours – therefore the costs would have varied. Although it approved the activities submitted by trainers, the department did not regulate or monitor the cost of OPD. OPD also differed each year, with the department developing a compulsory activity which ranged between one and three hours. In 2008/09, the compulsory activity was delivered through a DVD with providers delivering only the elective subjects. Anecdotally and depending on the trainer, the length of the activity, the location of the activity and the length/delivery of the compulsory activity, the cost of undertaking five hours OPD in 2008 ranged between approximately \$50 and \$160.

Benefits and costs for Registered Training Organisations

The requirements for training set by the Registrar of Marriage Celebrants in the *Marriage (Celebrancy qualifications or skills) Determination 2009* apply only to the four marriage celebrancy units within the Certificate IV in Celebrancy. The delivery of the other nine units of the Certificate IV in Celebrancy are solely a matter for the RTO in compliance with the requirements of the Australian Quality Training Framework and the conditions of registration as a training organisation in accordance with the national, state and territory regulatory requirements. Recent feedback from training organisations with the Certificate IV in Celebrancy in their teaching scope indicated that they have established processes and systems in place which allow them to comply with the requirements for delivering the four marriage celebrancy units.

The department considered that the requirements in relation to the materials for delivery of the four marriage celebrancy units would have low compliance costs on training organisations. The key materials required to be used in the delivery of the four marriage celebrancy units are readily available from the internet and at virtually no cost to training organisations or students. The only item not available on the internet is the DVD. All marriage celebrants were required to purchase and review the DVD as the compulsory OPD activity for the 2008-2009 registration year. If, despite this, the trainer (as a registered marriage celebrant) did not have a copy, the DVD was available for purchase from the department's supplier at a cost of approximately \$26. The DVD has since been replaced by a new resource that is available from the internet free of charge.

Recent feedback from RTOs was that some training organisations incur additional costs as a result of having to comply with the training requirements for delivering the four marriage celebrancy units, while others do not. One survey participant suggested that the elective units of competency were an unnecessary burden and a barrier to entry for new celebrants. It was suggested that they either be removed or specific units made compulsory. The survey participant stated that

'For a candidate who wishes to become a Marriage Celebrant only, the whole Certificate IV in Celebrancy covers more than they require and so wastes resources. Whilst classes can be adapted to marriage activities only, the RTO has difficulty to economically manage the students from both marriage and extra-marital celebrancy.'

When registered training organisations are accredited to deliver the Certificate IV in Celebrancy, the department provides them with information about the Registrar's requirements as well as the application process applicable to their graduates. Information for training providers is also on the department's website. Feedback from some RTOs suggests there is insufficient information available for their organisation to comply with the requirements for delivering the four marriage celebrancy units, while other RTOs indicated the information is sufficient.

Requirements relating to the delivery of vocational training are predicated upon people with vocational knowledge and experience. It was anticipated that the requirements that trainers in the marriage celebrancy units have met their obligations as registered marriage celebrants, have a minimal knowledge of conducting marriages and some experience as a registered marriage celebrant would have minimal impact on training organisations. The number of ceremonies required to have been conducted by a trainer has been kept at a minimum to afford opportunities for rural and regional celebrants to be involved in training, and in recognition of the time commitment involved in delivering training under the Certificate IV in Celebrancy. The department is aware that some training providers have set higher requirements for their trainers delivering the Certificate IV in Celebrancy.

The OPD tender selection process was open to all training organisations with either the Certificate IV in Celebrancy already within their teaching scope or in the process of adding it to their teaching scope. Training organisations participating on the OPD panel of providers are required to comply with the additional requirements applicable to the delivery of the four marriage celebrancy units in their delivery of OPD. There were 31 RTOs (number of RTOS registered to deliver the superseded qualification prior to the introduction of the Certificate IV in Celebrancy) that could have potentially sought to upgrade their delivery to the Certificate IV in Celebrancy. Ten potential eligible training organisations submitted an expression of interest for the OPD tender process.

OPD training providers are able to recover their costs through fees to marriage celebrants undertaking the activities. The department provides each of the OPD panel members with the text of each year's compulsory activity, and where applicable, develops frequently asked questions and answers to assist trainers to deliver the compulsory activity. The department develops the compulsory material within existing resources.

OPD panel members' design and delivery of OPD activities is part of their normal business operations as a RTO. Reporting requirements to the department are conducted electronically. The streamlining of the process of development, delivery and administration of OPD was expected to provide benefits to providers and the department as well as to marriage celebrants. An OPD monitoring group has been established to monitor OPD delivery. The monitoring group is comprised of the panel of OPD providers, representatives of the Coalition of Celebrant Associations and the department.

Benefits and costs for members of the public / marrying couples

The department envisages that with the streamlining of OPD, celebrants are more likely to focus on and develop their skills which will have positive flow on effects for marrying couples.

There has been no impact on the number of marriage celebrants available to marrying couples as a result of the introduction of the No.2 amendments (see above).

The department does not collect information about the cost of weddings in Australia or the fees charged by celebrants. Therefore, it cannot comment on how the cost of undertaking OPD each year is passed onto marrying couples. It assumes that celebrants would seek to distribute their overhead costs within the fees they charge to marrying couples. However, this would have also been the case prior to the amendments.

Benefits and costs for Government

New administrative processes were required to ensure that RTO certification in relation to the four marriage celebrancy units met the training requirements. Negligible costs were involved and met within existing resources.

The revised approach to OPD delivery replaced a system where the approval of OPD activities had been paper based, undertaken on an activity by activity basis by the department. The process was inefficient and onerous for both the activity providers and the department. It was unable to address issues relating to quality of activities and their delivery. The introduction of the new system has created efficiencies for the department and reduced the cost of staff time spent approving activities. However, the department is still responsible for approving the elective topics submitted by those OPD providers on the Panel.

Other measures implemented to support the 2009 amendments

In addition to the regulatory changes, the department introduced other measures to support the policy objectives of the 2009 amendments to the Marriage Regulations. These include the introduction of a legal questionnaire as part of the application package. The questions are designed to test applicants' knowledge of the legal requirements associated with solemnising a marriage. The answers are available within the key materials required for delivering the four marriage celebrancy units.

The department has also entered into a Memorandum of Understanding (MOU) with the ASQA. Many of the RTOs delivering marriage celebrancy training are registered and regulated by ASQA. The MOU provides a mechanism for the sharing of marriage celebrancy information to inform ASQA's risk management and regulation of the vocational education and training (VET) sector. It enables greater collaboration to identify and target potential risks. It also enables the department to assist ASQA in its exercise of regulatory functions as appropriate.

Further reforms to the Marriage Celebrants Program are underway, including the introduction of cost recovery from 1 July 2013. Extensive consultation on the broader reforms was held during 2011. At that time, many marriage celebrants expressed concern about the quality of training for aspiring celebrants and OPD. While some marriage celebrants acknowledged that the introduction of the Certificate IV in Celebrancy was a move in the right direction, they consider that further improvements can be made. The department released a consultation paper in August 2012 outlining, among other issues, a proposal to address the concerns specifically raised about training and OPD.

In addition to the changes proposed above by the department, the CSHISC commenced a review of the Certificate IV in Celebrancy in July 2012. Representatives of the marriage celebrant industry and the department will be involved in this review.

Conclusion

The 2009 amendments to the Regulations were intended to enhance professional skills and standards of service through more extensive training and professional development for Commonwealth-registered marriage celebrants.

The 2009 amendments increased the level of qualification required for initial registration as a Commonwealth marriage celebrant to a full Certificate IV in Celebrancy and streamlined the delivery of OPD for registered marriage celebrants.

Together, the amendments were intended to improve and update pre-registration training, better equip people for all celebrancy work and improve the quality of professional development for marriage celebrants.

Given that the issues the 2009 amendments were addressing are not easily measured, it is difficult to measure the overall benefits of the amendments. The above analysis demonstrates that there were benefits to introducing an increased qualification for aspiring marriage celebrants and that this qualification will have a positive benefit, particularly if training is of a high quality. While recent feedback provided to the department indicated that overall, the introduction of the Certificate IV in Celebrancy has had a positive impact on the marriage celebrancy industry, it has been highlighted that more may need to be done. Feedback has highlighted that while the units for the Certificate IV in Celebrancy provide aspiring celebrants with appropriate skills and training to conduct marriage celebrancy work, there is inconsistency in the quality of training being offered. It was also highlighted that there is varied and inconsistent knowledge and skills of trainers in the four marriage celebrancy units.

The department is undertaking further work to ensure that the policy objectives of the 2009 regulation changes are achieved. This is being done through the broader reforms currently being progressed by the department in consultation with marriage celebrants. The success of the 2009 amendments are constantly monitored and evaluated through the application and performance review mechanisms available to the department.

The next range of reforms will enable the department to solidify and build upon the 2009 amendments to ensure that celebrants are equipped to undertake the serious legal obligations that their role requires.