



The National Association of Professional Celebrants

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Response to Question on Notice

To:

Senate Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill

From:

Australian Federation of Civil Celebrants Inc. (AFCC) National Committee

Question on Notice:

During hearings on the above Bill on Monday 23 January 2017, **Senator SMITH** asked:

"whether 'grandfathering' - and that may not be the technically correct word, but we understand what we are talking about - would be a suitable accommodation; something that the Australian Federation of Civil Celebrants could accept?"

Response:

The AFCC National Committee supports the introduction of a 'grandfathering-like' provision into the *Marriage Act 1961*, predicated on;

- amendments to Subsections 5(1) and 46(1) to omit the words "a man and a woman" and substitute "2 people";
- an amendment to Paragraph 23B(2)(b) to omit the words "a brother and a sister" and substitute with "2 siblings"; AND
- amendments to Subsection 45(2) and 72(2) to insert the words "or spouse" after the words "or husband";

Such amendments would give effect to allowing for the marriage of same-sex couples pursuant to the *Marriage Act 1961* (as amended).

Accommodation:

Subject ALSO to the amendment to Subsection 40(2A) to the *Sex Discrimination Act 1984*, as described in the Bill, to insert ", or as authorised by" after the words "in direct compliance with", the AFCC National Committee supports the insertion of a new Section 47A, **BUT** with the addition of an additional Subsection (3) in the following (or similar) terms:

(3) Nothing in this section applies to a marriage celebrant (not being a minister of religion) registered or appointed after (... *here insert the date of effect or the commencement date of the amendments referred to above...*).

Effects:

1. All existing registered marriage celebrants (and those registered by the date of effect proposed by the addition of a new Subsection 47A(3) above) pursuant to **Subdivision C*** of the Act would be free to continue to solemnise marriages for heterosexual couples **AND** to solemnise marriages for same-sex couples.

[* that is, currently some 8,600 Independent Civil Marriage Celebrants and Independent Religious Marriage Celebrants.]

2. All existing registered marriage celebrants (and those registered by the date of effect proposed by the addition of a new Subsection 47A(3) above) would have the opportunity to exercise their conscientious or religious beliefs and decline (or 'refuse') to solemnise same-sex marriages and **NOT** be subject to action under the *Sex Discrimination Act 1984*.

3. Any celebrants registered or authorised pursuant to Subdivision C of the Act after the date of effect or the commencement date of the amendments would **NOT** be able to rely on protection provided by Section 47A of the Act.

Recommendation:

It might take many years to give full effect to such 'grandfathering-like' provisions as described, but they are well considered and supported by the AFCC National Committee as fair and equitable.

Referred for consideration.

This response to a **Question on Notice** is provided by and on behalf of the National Committee of the Australian Federation of Civil Celebrants Inc. (AFCC).

(Original signed)

Brian Richardson
AFCC National President
28 January 2017