



Australian Government

Department of Education, Employment and Workplace Relations

CHCCEL402A Establish and maintain knowledge of legal responsibilities of a marriage celebrant

Release: 1

CHCCEL402A Establish and maintain knowledge of legal responsibilities of a marriage celebrant

Modification History

Not Applicable

Unit Descriptor

Descriptor

This unit describes the knowledge required to be developed and maintained by marriage celebrants to fulfil their legal responsibilities under the *Marriage Act 1961* and *Marriage Regulations 1963*, including the Code of Practice for Marriage Celebrants. It is a pre-requisite for enrolment in all other units of competency specific to marriage celebrancy.

Application of the Unit

Application

This unit is mandatory for individuals aspiring to be appointed as marriage celebrants and suitable for existing marriage celebrants registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*.

Licensing/Regulatory Information

Not Applicable

Pre-Requisites

Pre-requisite

This unit must be assessed after achievement of related unit:

- CHCCEL401A Work effectively in a celebrancy role

Employability Skills Information

Employability Skills

This unit contains Employability Skills

Elements and Performance Criteria Pre-Content

Elements define the essential outcomes of a unit of competency.

The Performance Criteria specify the level of performance required to demonstrate achievement of the Element. Terms in italics are elaborated in the Range Statement.

Elements and Performance Criteria

ELEMENT

PERFORMANCE CRITERIA

1. Address legal requirements to work as a marriage celebrant

1.1 Work with demonstrated accurate knowledge of the *responsibilities and obligations of a marriage celebrant under the Marriage Act 1961 and Marriage Regulations 1963*

1.2 Work with demonstrated accurate knowledge of available family relationship services as required under the *Code of Practice* for Marriage Celebrants

ELEMENT

PERFORMANCE CRITERIA

- | | |
|---|---|
| 2. Demonstrate understanding of provisions of the <i>Marriage Act 1961</i> and <i>Marriage Regulations 1963</i> regarding marriage in Australia | 2.1 Work with demonstrated accurate knowledge of the provisions of the <i>Marriage Act</i> and <i>Marriage Regulations</i> that apply to marriage in Australia |
| | 2.2 Work with demonstrated accurate knowledge of the <i>requirements for marriage under the Marriage Act 1961 and Marriage Regulations 1963</i> |
| | 2.3 Work with demonstrated accurate knowledge of local relationship support services available to marrying couples |
| | 2.4 Work with a demonstrated accurate knowledge of the documents required for marriage |
| | 2.5 Demonstrate understanding of the marriage celebrant's obligation to forward specific documents to the appropriate registering authority to enable the registration of the marriage following the ceremony |

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge and their level required for this unit.

Essential knowledge:

The candidate must be able to demonstrate essential knowledge required to effectively do the task outlined in elements and performance criteria of this unit, manage the task and manage contingencies in the context of the identified work role

These include knowledge of:

- *Marriage Act:*
 - knowledge of the obligations and responsibilities of a marriage celebrant according to the Marriage Act and Marriage Regulations and Code of Practice
 - knowledge of all documentation which must be sighted before a marriage can take place
 - knowledge of offences under the Marriage Act
- Other Legislation
 - general knowledge of aspects of Commonwealth Migration, Privacy, Trade Practices, Commonwealth Statutory Declarations and Copyright Acts relevant to performing the role of a marriage celebrant
 - awareness of Commonwealth discrimination laws as well as those in each state and territory
 - knowledge of the processes and procedures of State/territory Registrars of Births, Deaths and Marriages
- *Statutory Declarations Act 1959 (Cwlth):*
 - detailed knowledge of responsibilities in accepting a Commonwealth Statutory Declaration
- *Migration Act 1958:*
 - broad understanding of immigration laws and the issues that may arise for parties who do not have permanent residency status and wish to marry
 - awareness that marriage does not automatically give permanent residency
- *Copyright Act 1968* especially applicability of the use of material in ceremonies
- *Privacy Act 1988*
 - understanding that celebrants have an obligation to protect privacy and maintain confidentiality
- *Trade Practices Act 1974*

REQUIRED SKILLS AND KNOWLEDGE

- understanding of obligations relevant to operating as a marriage celebrant within the Trade Practices Act; and
- knowledge of where to locate relevant information
- Marriage/relationship education services - knowledge of pre-marriage and other relationship education services
- Knowledge of sources of legal and practical information

REQUIRED SKILLS AND KNOWLEDGE

Essential skills:

It is critical that the candidate demonstrate the ability to:

- Comply with all obligations and responsibilities under the Marriage Act
- Adhere to all required legislation
- Provide information about the availability of relationship education services
- Explain the key features of the *Marriage Act 1961*
- Accurately complete essential legal documents
- Locate the relevant information for other state/territory legislation as required (such as local government parks and gardens, State and Territory registering authorities)

In addition, the candidate must be able to effectively do the task outlined in elements and performance criteria of this unit, manage the task and manage contingencies in the context of the identified work role

These include the ability to:

- Refer persons to appropriate authority for further information
- Provide ceremony resources that are varied, presentable and well maintained
- Demonstrate language and literacy competence, including:
 - literacy competence to satisfactorily fulfil the role of a marriage celebrant including the ability to interpret legal requirements and Commonwealth policies and procedures
 - language competence to convey legal requirements to marrying couples

Evidence Guide

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, the Range Statement and the Assessment Guidelines for this Training Package.

Critical aspects for assessment and evidence required to demonstrate this unit of

- The individual being assessed must provide evidence of specified essential knowledge as well as skills
- The individual being assessed must demonstrate a thorough and accurate understanding of the legal

EVIDENCE GUIDE

competency:

requirements for marriage [Note: minimal competence is not adequate as the consequences for couples of the celebrant making errors are serious]

- The individual being assessed must demonstrate their ability to transcribe accurately names and other personal details (both electronically and by hand) to a range of marriage forms and certificates [Note: total accuracy is required as marrying couples have to pay registering authorities to have celebrants' errors corrected]
- A diversity of assessment tasks is essential for holistic assessment

Access and equity considerations:

- All workers in community services should be aware of access, equity and human rights issues in relation to their own area of work
- All workers should develop their ability to work in a culturally diverse environment
- In recognition of particular issues facing Aboriginal and Torres Strait Islander communities, workers should be aware of cultural, historical and current issues impacting on Aboriginal and Torres Strait Islander people
- Assessors and trainers must take into account relevant access and equity issues, in particular relating to factors impacting on Aboriginal and/or Torres Strait Islander clients and communities

Context of and specific resources for assessment:

- This unit must be assessed independently.
- Resources required for assessment of this unit include access to:
 - relevant or appropriately simulated environment where assessment can take place
 - relevant legislation, guidelines, Code of Practice, and range of required documentation

EVIDENCE GUIDE

Method of assessment:

- The individual being assessed must provide written evidence of specified essential knowledge as well as skills
- In establishing that competency has been achieved in this unit, written assessment must include a variety of circumstances and scenarios to ensure that the student can apply the legal requirements to a variety of practical circumstances
- Evidence during process for assessment of accurate completion of required documentation prior to ceremony and correct finalising of documents for forwarding to Registry Office following ceremony
- Evidence of knowledge of all elements of Code of Practice and Marriage Act and its Regulations

Range Statement

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance.

Please note: There are no local or contextual variations for this unit. The following points apply in ALL contexts.

RANGE STATEMENT

Responsibilities and obligations of a marriage celebrant under the Marriage Act 1961 and Marriage Regulations 1963

Marriage Act 1961:

- Categories of marriage celebrant
- Register of marriage celebrants
- Requirements for registration, including the fit and proper person test
- Criteria for fit and proper person test
- Process of consideration of applications and registration
- Obligations of marriage celebrants
- Ongoing professional development
- Performance reviews
- Circumstances in which disciplinary measures can be taken against a marriage celebrant
- Disciplinary measures that may be taken against a marriage celebrant
- Review of decisions of the Registrar of Marriage Celebrants
- Complaints against marriage celebrants

Marriage Regulations 1963:

- Qualifications and skills required by applicants
- The application form and documents of notification
- Requirements for ongoing professional development for marriage celebrants
- Matters the Registrar of Marriage Celebrants must take into account in conducting a performance review
- The operation of the complaints process
- The Code of Practice for Marriage Celebrants

Requirements for marriage under the Marriage Act 1961 include:

- What marriage is under Australian law
- Who may marry
- Requirements for a valid marriage
- Instances in which marriage may not take place e.g. surprise marriages, prohibited relationships, no evidence of termination of previous marriage, party under the minimum age for marriage
- Requirements in the case of marriages in which one party is aged between 16 and 18

continued ...

RANGE STATEMENT

- Requirements for marriage under the Marriage Act 1961 (contd):*
- When and where marriages may take place
 - Correct completion of the Notice of Intended Marriage
 - Recording of names on marriage documents
 - Witnessing of signatures on the Notice of Intended Marriage - when signed in Australia and when signed overseas
 - Evidence of the date and place of birth of parties to a proposed marriage (evidence required when parties born in Australia and born overseas)
 - Evidence of the end of a previous marriage of a party to a proposed marriage (evidence required for previous marriages conducted in Australia and overseas)
 - Evidence of the identity of parties to a proposed marriage
 - Completion of declarations of capacity to marry
 - Documents required to be given to marrying couples
 - Completion of Form 16 and Form 15 marriage certificates and Form 14 declarations
 - Record-keeping requirements for the Form 15 marriage certificate
 - Use of interpreters
 - Requirements relating to Commonwealth statutory declarations
 - Requirements for those coming to Australia from overseas to marry
 - Shortening of time for notice of an intended marriage
 - Requirements for witnesses to the marriage
 - Offences under the Marriage Act
 - Legal content required in a marriage ceremony
 - The legal differences between a religious and a non-religious (or civil) marriage ceremony
 - The legal differences between requirements for ministers of religion and those marriage celebrants who are not
 - Requirement to forward specific documents to the registering authority within 14 days of the ceremony

RANGE STATEMENT

Requirements for marriage under the Marriage Regulations 1963 include:

- Circumstances for shortening of the notice time for an intended marriage
- Required forms
- Completion and retention of forms

Requirements of the Code of Practice and other relevant legislation include:

- Legal requirements of the Code of Practice including:
 - knowledge of a variety of family relationship services available to enhance and sustain couples throughout their relationship
- Other relevant legislation including:
 - anti-discrimination legislation
 - trade practices and fair trading legislation
 - copyright
 - local government requirements e.g. parks and gardens
 - registration requirements in the relevant state and/or territory

Unit Sector(s)

Not Applicable