

DRAFT FOR CONSULTATION

Celebrant Eligibility Expansion Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to amend the Marriage Act 1955 and the Civil Union Act 2004 to make it easier to become a marriage or civil union celebrant in New Zealand.

New Zealand is an increasingly modern society which takes pragmatic approaches to how we solve problems and how we shape laws to suit the circumstances of a modern world. The example of marriage is one such area where recent law changes have been modernised and updated to reflect how contemporary society operates. The ability for a couple to legally recognise their relationship through a civil union was implemented by the Civil Union Act 2004, and more recently the ability for same-sex couples to legally marry was implemented by the Marriage (Definition of Marriage) Amendment Act 2013.

The demand for independent marriage and civil union celebrants is steadily rising in New Zealand, with over 60% of marriages and funerals now being officiated by independents. This reflects a modern New Zealand where society has fewer ties to organised religion and greater individual and community bonds. However, there are only 2,300 independent celebrants compared to 7,413 celebrants from religious (or other organisational) backgrounds. As New Zealand becomes increasingly diverse it becomes more important that a diverse range and variety of independent celebrants are available to perform ceremonies.

One reason for this disparity is that it is unduly difficult to become a marriage or civil union celebrant in New Zealand. This is due to the statutory requirement that an application must be “in the interest of the public generally, or of a particular community (whether defined by geography, interest, belief, or some other factor). Currently, if a community or applicant identifies a need it is up to them to prove both that the need exists and that the applicant meets that need.

There is no principled reason why a celebrant should need to meet the interests of a particular community. By definition, if someone wishes to be a celebrant, they already meet the needs of at least some part of the community.

This bill would change the law so that an applicant must be approved as a marriage celebrant or civil union celebrant, so long as the applicant could prove (to the Registrar-General's satisfaction) that he or she is:

- a Justice of the Peace (in the case of the Marriage Act 1955), or other person of good character (in the case of both the Marriage Act 1955 or Civil Union Act 2004); and
- that the applicant will conscientiously perform the duties of a marriage celebrant under the Marriage Act 1955 or a civil union celebrant under the Civil Union Act 2004, and under the Births, Deaths, Marriages, and Relationships Registration Act 1995.

Clause by clause analysis

Clause 1 is the Title clause. The Bill is intended to be divided at the end of its committee of the whole House stage, and to be enacted as the following 2 separate Acts:

- Civil Union (Celebrant Eligibility Expansion) Amendment Act **2015**;
- Marriage (Celebrant Eligibility Expansion) Amendment Act **2015**.

Clause 2 is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Part 1

Amendment to Civil Union Act 2004

Clause 3 provides that *Part 1* amends the Civil Union Act 2004.

Clause 4 amends section 26 to make mandatory the Registrar-General's approval of an application to be a civil union celebrant if the applicant meets the stated criteria. The criteria are also amended by removing the requirement that it be in the interests of the public generally, or of a particular community, that the person be a civil union celebrant.

Part 2

Amendment to Marriage Act 1955

Clause 5 provides that *Part 2* amends the Marriage Act 1955.

Clause 6 amends section 11 to make mandatory the Registrar-General's approval of an application to be a marriage celebrant if the applicant meets the stated criteria. The criteria are also amended by removing the requirement that it be in the interests of the public generally, or of a particular community, that the person be a marriage celebrant.

Chris Bishop

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Contents

		Page
1	Title	1
2	Commencement	1
Part 1		
Amendment to Civil Union Act 2004		
3	Principal Act	2
4	Section 26 amended (Appointment of civil union celebrants)	2
Part 2		
Amendment to Marriage Act 1955		
5	Principal Act	2
6	Section 11 amended (Other persons may be marriage celebrants)	2

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Celebrant Eligibility Expansion Act **2015**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendment to Civil Union Act 2004

3 Principal Act

This **Part** amends the Civil Union Act 2004 (the **principal Act**).

4 Section 26 amended (Appointment of civil union celebrants)

- (1) In section 26(2), replace “may” with “must”.
- (2) In section 26(2)(c), replace “1995; and” with “1995.”
- (3) Repeal section 26(2)(c).

Part 2

Amendment to Marriage Act 1955

5 Principal Act

This **Part** amends the Marriage Act 1955 (the **principal Act**).

6 Section 11 amended (Other persons may be marriage celebrants)

- (1) In section 11(3), replace “may” with “must”.
- (2) In section 11(3)(b), replace “1995; and” with “1995.”
- (3) Repeal section 11(3)(c).