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Marriage Act 1961

Evidence of Birth and Identification Requirements for Marriage in Western Australia

**ORIGINALS OF ALL DOCUMENTS NEED TO BE PRODUCED
PRIOR TO SOLEMNISATION OF THE MARRIAGE**

ALL PARTIES

| | <i>Evidence of Birth</i> | <i>Identification</i> |
|--|--|---|
| Australian-born Bride/Groom/Party | <ul style="list-style-type: none"> • Original Birth Certificate <li style="text-align: center;">OR • Australian Passport. | <ul style="list-style-type: none"> • Photographic driver's licence; OR • Proof of Age card; OR • Australian Passport. |
| Overseas-born Bride/Groom/Party | <ul style="list-style-type: none"> • Birth Certificate - (must be translated to English) <li style="text-align: center;">OR • International Passport. | <ul style="list-style-type: none"> • Photographic driver's licence; OR • Proof of Age card; OR • Passport; OR • a Certificate of Australian Citizenship along with another form of photographic evidence (such as a student card or other photo identification not listed above). |

AND IF ANY PARTY WAS PREVIOUSLY MARRIED:

| | <i>If last marriage was terminated by:</i> | | |
|-------------------|--|--|----------------------------------|
| | <i>Death</i> | <i>Divorce</i> | <i>Nullity</i> |
| Bride/Groom/Party | Original Death Certificate | <ul style="list-style-type: none"> • certificate of divorce; OR • decree absolute; OR • overseas-issued equivalent. | Court Order confirming annulment |

EXPLANATORY NOTES

ESTABLISHING THE IDENTITIES OF THE PARTIES

An authorised celebrant shall not solemnise a marriage unless satisfied that the parties are the parties referred to in the Form 13 Notice of Intended Marriage (“NOIM”). This requirement is **SEPARATE** from, and **ADDITIONAL** to, the requirement that each party to a marriage must give their authorised celebrant evidence of their date and place of birth before a marriage is solemnised. Each party to a marriage needs to provide at least **one** of the following documents with **photo identification** as evidence of their identity:

- a driver’s licence
- a proof of age/photo card
- an Australian or overseas passport, or
- a Certificate of Australian Citizenship along with another form of photographic evidence (such as a student card or other photo identification not listed above).

EVIDENCE OF DATE AND PLACE OF BIRTH

The *Marriage Act 1961* requires that each party to a marriage must give their authorised celebrant evidence of their date and place of birth before a marriage is solemnised.

The following documents are the **ONLY** acceptable as evidence of a party’s date and place of birth:

- an original birth certificate, or an official extract of an entry in an official register showing the date and place of birth of the party, or
- a passport issued by the Australian government or a government of an overseas country showing the date and place of birth of the party.

If the document a party provides as evidence of their date and place of birth is written in another language or alphabet, the couple should seek a translation of the document by an accredited translator. The NAATI website has a list of translators (www.naati.com.au)

You should endeavour to produce evidence of the date and place of your birth at the time you lodge the NOIM with your authorised celebrant, however if this is not possible, it may be produced at any time before the marriage is solemnised. It is an **offence** for an authorised celebrant to solemnise a marriage before this evidence of date and place of birth has been produced by each of the parties to the proposed marriage.

If an Australian-born party does not have their birth certificate, or an official extract of an entry in an official register, they should obtain a birth certificate from the BDM in the State or Territory where they were born.

A party who does not have a passport and is able to obtain their original birth certificate or extract is expected to do so. The fact that it will cost a party money to obtain their original birth certificate or extract, or they have left it until just before the marriage ceremony to obtain it, does not make it ‘impracticable’ (impossible) to obtain it and is not an acceptable basis on which to swear a statutory declaration.

PREVIOUS MARRIAGES

The NOIM requires the parties state how their last marriage was terminated, if they have previously been married. The options that may be listed are:

- death
- divorce, or
- nullity.

If a party has indicated that they were previously married, and this marriage was terminated through death, divorce or nullity, they **must** produce evidence of the termination of their previous marriage to the authorised celebrant **prior** to the current marriage being solemnised.

Death of Previous Spouse

In the case of a party whose last marriage ended with the death of their spouse, couples must be advised the marriage cannot take place until evidence of the death has been provided. The evidence of the termination of that marriage will be the spouse's original death certificate. If the party wishing to marry does not have the death certificate, and their spouse died in Australia, the party should be able to obtain the death certificate from the BDM in the State or Territory where their spouse died.

Divorce

A party whose last marriage ended in divorce must produce evidence of this divorce to the authorised celebrant. This evidence should take the form of the actual certificate of divorce, decree absolute or overseas issued equivalent. Couples are advised that the marriage cannot take place until the evidence of this divorce has been sighted.

If a party has been married several times before, only the divorce order for the most recent marriage need be sighted by the authorised celebrant.

Annulment

A party claiming that a previous marriage has been annulled must provide the authorised celebrant with a court document to that effect.

Evidence of Divorces granted in Australia

For divorces granted in Australia the required evidence of divorce will depend on when the divorce was granted. As explained below, it will be either a 'decree absolute', 'certificate of divorce' or 'divorce order'.

| When divorce granted | Required evidence of divorce |
|--------------------------------------|--|
| 5 January 1975 to 1 July 2002 | 'decree absolute' (A 'decree nisi' is not sufficient.) |
| 1 July 2002 to 3 August 2005 | 'certificate of divorce' (The certificate will include wording of decree nisi/absolute but the document is called a certificate of divorce.) |
| 3 August 2005 to 13 February 2010 | 'certificate of divorce' (Wording on the certificate will refer to a 'divorce order'.) |
| 13 February 2010 to 17 December 2011 | 'divorce order' (Issued electronically with no colour seals or signatures.) |
| From 17 December 2011 | current 'divorce order' (Issued electronically with colour seal and signature. An authorised celebrant may accept a divorce order where seal and signature are <u>not</u> in colour.) (Wording includes the Court's jurisdictional finding that one or both parties domiciled in <u>or</u> a citizen of <u>or</u> ordinarily resident in Australia.) |

The Courts (Federal Circuit Court and the Family Court) have, since February 2010, produced divorce orders in an electronic format including an electronic seal and signature. These orders include a certification pursuant to section 56 of the *Family Law Act 1975* of the fact that the divorce order took effect on the date indicated. An authorised celebrant is entitled to rely on these orders as evidence of a person's Australian divorce.

If a person has lost their certificate of divorce or divorce order granted in Australia they should request a new one from the court that issued it.