

## **Marriage Law Survey (Additional Safeguards) Act 2017**

The *Marriage Law Survey (Additional Safeguards) Act 2017* came into force on 14 September 2017, and will continue to operate until the completion of the marriage survey on 15 November 2017. We have set out below a high-level summary of the key requirements of the Act.

Here is the Act: <https://www.legislation.gov.au/Details/C2017A00096>

Here are the ABS Frequently Asked Questions: <https://marriagesurvey.abs.gov.au/safeguards>

### **Authorisation of Material**

Any material published for public distribution (including electronically or in the form of bulk text messages and phone calls) that comments on same-sex marriage, the marriage law survey process, or the marriage law survey question, or refers to a meeting to be held in relation to such matters, will need to be properly authorised in accordance with s. 6 of the Act.

Importantly, this requirement does not extend to communications for personal purposes (that is, private communications that are not intended for broader public distribution).

### **Threats and Vilification**

The Act notes that it is an offence to:

- make a threat to a person with the intention to influence that person's decision as to whether to, or how to, complete a marriage law survey form;
- vilify, intimidate, or threaten to cause harm to a person because of the religious conviction, sexual orientation, or gender identity of that person;
- vilify, intimidate, or threaten to cause harm to a person because that person holds (or has expressed) a view in relation to the marriage law survey; or
- discriminate against a person because that person has made a donation to a relevant entity.

However, the Act provides that a person does not vilify another person in breach of the Act if the person does no more than express his or her view about the marriage law survey question.

### **Interference with Marriage Law Survey Response**

The Act establishes an offence of hindering or interfering with the return of a survey response.

### **Misleading Material**

The Act prohibits the printing, publication, or distribution of material, from the commencement of the Act, that is likely to mislead or deceive a person in relation to their return of a marriage law survey response.

Importantly, this prohibition extends only to material that influences a decision of whether or not to return a survey and/or the correct manner in which a survey must be completed (for example, misrepresentations about the closing date of the survey, or misrepresentations that marking a survey in a certain way will have the opposite effect to the effect that the person wishes it to have).

### **Requirements of Broadcasters**

The Act places a number of additional obligations on commercial, community, and publicly funded broadcasters who broadcast material that relates to same-sex marriage, the marriage law survey process, or the marriage law survey question. These obligations relate to ensuring the proper authorisation of any material broadcast at the request of a third party, and providing a reasonable opportunity for persons holding an opposite view to broadcast material of their own.

There are, however, some exemptions from the "balanced broadcast" requirements for community broadcasters that represent a religious, or gay and lesbian, community interest.