



Minors (Court Consent to Relationships) Legislation Act 2018

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Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Minors (Court Consent to Relationships) Legislation Act 2018.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Amendments to Marriage Act 1955**

- 3 Amendments to Marriage Act 1955**
This Part amends the Marriage Act 1955.

4 Section 2 amended (Interpretation)

In section 2(1), repeal the definition of **minor**.

5 New section 2A inserted (Transitional, savings, and related provisions)

After section 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Section 3 amended (Application of Act)

In section 3(2), replace “the provisions relating to consents to the marriage of minors, shall” with “section 18 (marriage of persons 16 and 17 years of age),”.

7 Section 17 amended (Marriage of persons under 16 years of age)

Repeal section 17(2).

8 Sections 18 to 21 replaced

Replace sections 18 to 21 with:

18 Marriage of persons 16 and 17 years of age

- (1) This section applies if, on the date on which notice of an intended marriage is given under section 23,—
 - (a) either party to the intended marriage is aged 16 or 17 years; or
 - (b) both parties to the intended marriage are aged 16 or 17 years.
- (2) If this section applies, a Registrar must not issue a marriage licence authorising the intended marriage, or solemnise the marriage, unless a Family Court Judge has, under this section, consented to the intended marriage.
- (3) A party to an intended marriage who is aged 16 or 17 years must apply to the Family Court for a Family Court Judge’s consent to the intended marriage, and a joint application may be made if both parties to the intended marriage are aged 16 or 17 years.
- (4) A Family Court Judge may, on receipt of an application made under subsection (3), consent to the intended marriage only if the Judge is satisfied that, for each party to the intended marriage aged 16 or 17 years,—
 - (a) the party has made the application voluntarily, free of undue influence or coercion; and
 - (b) the party understands the consequences of the application and wants the Judge to consent to the intended marriage; and
 - (c) the intended marriage is in the party’s interests.

- (5) In determining whether the intended marriage is in a party's interests, the matters the Judge must take into account include, without limitation,—
- (a) the age and maturity of the party; and
 - (b) the party's views; and
 - (c) any views of the party's parents and guardians that can reasonably be ascertained; and
 - (d) any other information available to the court relevant to the party's application.

19 Court may appoint lawyers in proceedings under section 18

- (1) In any proceedings under section 18, the Family Court Judge may appoint a lawyer to represent the applicant if the Judge is satisfied that the appointment is necessary or desirable.
- (2) In any proceedings under section 18, the Family Court Judge may (whether or not an appointment is made under subsection (1))—
 - (a) appoint a lawyer to assist the court; or
 - (b) direct a Registrar of the court to appoint a lawyer to assist the court.
- (3) The fees and expenses of a lawyer appointed under subsection (1) or (2) must—
 - (a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the Family Court; and
 - (b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- (4) An invoice for fees and expenses rendered by a lawyer appointed under this section must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may decide to adjust the amount of the invoice.
- (5) If the lawyer is dissatisfied with the decision of the Registrar as to the amount of the invoice, the lawyer may, within 14 days after the date of the decision, apply to a Judge of the court to review the decision, and the Judge may make any order varying or confirming the decision that the Judge considers fair and reasonable.

20 Judge may obtain cultural report

- (1) In any proceedings under section 18, the Family Court Judge may obtain a written cultural report by—
 - (a) requesting a person whom the Judge considers qualified for the purpose to prepare one; or
 - (b) directing the Registrar to request a person whom the Registrar considers qualified for the purpose to prepare one.

- (2) The court may act under subsection (1) only if satisfied that—
 - (a) the information that the report will provide is essential for determining the application; and
 - (b) the report is the best source of the information, having regard to the quality, timeliness, and cost of other sources; and
 - (c) the proceedings will not be unduly delayed by the time taken to prepare the report; and
 - (d) any delay in the proceedings will not have an unacceptable effect on the applicant.
- (3) If the court is entitled by subsection (2) to act under subsection (1) and if the court knows the applicant's wishes about the obtaining of a report or can speedily ascertain them, the court must have regard to the applicant's wishes before deciding whether or not to act under subsection (1).
- (4) Fees for the preparation of reports obtained under this section, and reasonable expenses incurred, must—
 - (a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the court; and
 - (b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- (5) In this section, **cultural report** means a report that is about the applicant and that covers an aspect or aspects of the applicant's cultural background, including the applicant's religious denomination and practice.

21 When marriage is or may be declared void

The grounds on which a marriage is void *ab initio* are set out in section 31 of the Family Proceedings Act 1980.

9 Section 42 amended (Notice of intended marriage outside New Zealand)

In section 42(3), replace “consents” with “consent”.

10 Section 64A amended (Rules of procedure)

- (1) In section 64A(1), replace “sections 19” with “sections 18”.
- (2) Replace section 64A(2) with:
- (2) The rules do not affect the practice and procedure of the District Court in proceedings under section 26.

11 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of this Act as the first schedule to appear after the last section of the Marriage Act 1955.

Part 2

Amendments to Civil Union Act 2004

12 Amendments to Civil Union Act 2004

This Part amends the Civil Union Act 2004.

13 New section 5A inserted (Transitional, savings, and related provisions)

After section 5, insert:

5A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

14 Sections 19 and 20 replaced

Replace sections 19 and 20 with:

19 Consent to civil union of persons aged 16 or 17

- (1) This section applies if, on the date on which notice of the intended union is given under section 11,—
 - (a) either party to the intended civil union is aged 16 or 17 years; or
 - (b) both parties to the intended civil union are aged 16 or 17 years.
- (2) If this section applies, a Registrar must not issue a licence authorising the intended civil union, or solemnise the civil union, unless a Family Court Judge has, under this section, consented to the intended civil union.
- (3) A party to an intended civil union who is aged 16 or 17 years must apply to the Family Court for a Family Court Judge's consent to the intended civil union, and a joint application may be made if both parties to the intended civil union are aged 16 or 17 years.
- (4) A Family Court Judge may, on receipt of an application made under subsection (3), consent to the intended civil union only if the Judge is satisfied that, for each party to the intended civil union aged 16 or 17 years,—
 - (a) the party has made the application voluntarily, free of undue influence or coercion; and
 - (b) the party understands the consequences of the application and wants the Judge to consent to the intended civil union; and
 - (c) the intended civil union is in the party's interests.
- (5) In determining whether the intended civil union is in a party's interests, the matters the Judge must take into account include, without limitation,—
 - (a) the age and maturity of the party; and
 - (b) the party's views; and

- (c) any views of the party's parents and guardians that can reasonably be ascertained; and
- (d) any other information available to the court relevant to the party's application.

20 Court may appoint lawyers in proceedings under section 19

- (1) In any proceedings under section 19, the Family Court Judge may appoint a lawyer to represent the applicant if the Judge is satisfied that the appointment is necessary or desirable.
- (2) In any proceedings under section 19, the Family Court Judge may (whether or not an appointment is made under subsection (1))—
 - (a) appoint a lawyer to assist the court; or
 - (b) direct a Registrar of the court to appoint a lawyer to assist the court.
- (3) The fees and expenses of a lawyer appointed under subsection (1) or (2) must—
 - (a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the Family Court; and
 - (b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- (4) An invoice for fees and expenses rendered by a lawyer appointed under this section must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may decide to adjust the amount of the invoice.
- (5) If the lawyer is dissatisfied with the decision of the Registrar as to the amount of the invoice, the lawyer may, within 14 days after the date of the decision, apply to a Judge of the court to review the decision, and the Judge may make any order varying or confirming the decision that the Judge considers fair and reasonable.

20A Judge may obtain cultural report

- (1) In any proceedings under section 19, the Family Court Judge may obtain a written cultural report by—
 - (a) requesting a person whom the Judge considers qualified for the purpose to prepare one; or
 - (b) directing the Registrar to request a person whom the Registrar considers qualified for the purpose to prepare one.
- (2) The court may act under subsection (1) only if satisfied that—
 - (a) the information that the report will provide is essential for determining the application; and

- (b) the report is the best source of the information, having regard to the quality, timeliness, and cost of other sources; and
 - (c) the proceedings will not be unduly delayed by the time taken to prepare the report; and
 - (d) any delay in the proceedings will not have an unacceptable effect on the applicant.
- (3) If the court is entitled by subsection (2) to act under subsection (1) and if the court knows the applicant's wishes about the obtaining of a report or can speedily ascertain them, the court must have regard to the applicant's wishes before deciding whether or not to act under subsection (1).
- (4) Fees for the preparation of reports obtained under this section, and reasonable expenses incurred, must—
- (a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the court; and
 - (b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- (5) In this section, **cultural report** means a report that is about the applicant and that covers an aspect or aspects of the applicant's cultural background, including the applicant's religious denomination and practice.

15 Section 23 amended (When civil union is or may be declared void)

Repeal section 23(2) and (3).

16 Section 36 amended (Rules of procedure)

- (1) In section 36(1), replace “20” with “19”.
- (2) Replace section 36(2) with:
- (2) Rules made under the Family Court Act 1980 do not affect the practice and procedure of the District Court in proceedings under section 22.

17 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 2 of this Act as the first schedule to appear after the last section of the Civil Union Act 2004.

Part 3

Amendments to Care of Children Act 2004

18 Amendments to Care of Children Act 2004

This Part amends the Care of Children Act 2004.

19 New section 11A inserted (Transitional, savings, and related provisions)

After section 11, insert:

11A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

20 Section 46A replaced (Consent for de facto relationship)

Replace section 46A with:

46A Consent for de facto relationship

- (1) A child aged 16 or 17 who wishes to obtain consent for his or her de facto relationship must make an application to the Family Court for the consent of a Family Court Judge.
- (2) A Family Court Judge may, on an application of a child made under subsection (1), consent to the de facto relationship only if the Judge is satisfied that—
 - (a) the child has made the application voluntarily, free of undue influence or coercion; and
 - (b) the child understands the consequences of the application and wants the Judge to consent to the de facto relationship; and
 - (c) the de facto relationship is in the child’s interests.
- (3) In determining whether the de facto relationship is in the child’s interests, the matters that the Judge must take into account include, without limitation,—
 - (a) the age and maturity of the child; and
 - (b) the child’s views; and
 - (c) any views of the child’s parents and guardians that can reasonably be ascertained; and
 - (d) any other information available to the court relevant to the child’s application.

21 Section 46C amended (Certain children may seek review of parent’s or guardian’s decision or refusal to give consent)

Repeal section 46C(3).

22 Section 131 amended (Fees and expenses of lawyer appointed under section 7 or 130)

In section 131(5)(a), replace “section 105” with “section 46A or 105”.

23 Section 133 amended (Reports from other persons)

- (1) In section 133(1), definition of **application**, after paragraph (a)(ii), insert:
 - (ia) an application under section 46A; or

- (2) Immediately before section 133(2), insert:
- (1A) In proceedings relating to an application under section 46A, the court may obtain only a cultural report.
- (1B) In proceedings relating to any other application, the court may obtain any 1 or more of the following:
- (a) a cultural report:
 - (b) a medical report:
 - (c) a psychiatric report.
- (3) Immediately before section 133(5), insert:
- (4A) In proceedings relating to an application, other than an application under section 46A, the court may obtain a psychological report.

24 Section 135 amended (Costs of reports requested under section 133)

After section 135(2), insert:

- (3) However, no order under section 135A may be made in any proceedings commenced by an application under section 46A.

25 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 3 of this Act as the first schedule to appear after the last section of the Care of Children Act 2004.

Part 4

Consequential amendments to other enactments

Citizenship Act 1977

26 Amendments to Citizenship Act 1977

Sections 27 to 29 amend the Citizenship Act 1977.

27 Section 3 amended (Special provisions relating to parentage)

- (1) In section 3(5A), replace “subsection 3(1)(a)” with “subsection (1)(a)”.
- (2) Replace section 3(5A)(b) with:
- (b) a person who has attained the age of 16 years but who is younger than 18 years may be treated as having a de facto relationship with another person only if the person has obtained consent for the relationship in accordance with section 46A of the Care of Children Act 2004.

28 New section 4B inserted (Transitional, savings, and related provisions)

After section 4A, insert:

4B Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

29 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 4 of this Act as the first schedule to appear after the last section of the Citizenship Act 1977.

*Family Court Act 1980***30 Amendments to Family Court Act 1980**

Sections 31 and 32 amend the Family Court Act 1980.

31 Section 12A amended (Evidence)

After section 12A(2)(h), insert:

- (i) Civil Union Act 2004:
- (j) Marriage Act 1955.

32 Section 16D amended (Regulations relating to payments to professionals)

(1) In section 16D(1)(a)(vi), replace “; or” with “:”.

(2) After section 16D(1)(a)(vi), insert:

- (vii) section 20(1) of the Civil Union Act 2004:
- (viii) section 19(1) of the Marriage Act 1955; or

(3) After section 16D(1)(b)(vi), insert:

- (vii) section 20(2) of the Civil Union Act 2004:
- (viii) section 19(2) of the Marriage Act 1955.

(4) Replace the heading above section 16D(6) with:

Fees and expenses for report writers

(5) Replace section 16D(6)(a) with:

- (a) a person who prepares a cultural report when requested to do so under—
 - (i) section 133(2) of the Care of Children Act 2004:
 - (ii) section 20A of the Civil Union Act 2004:
 - (iii) section 20 of the Marriage Act 1955:

*Family Proceedings Act 1980***33 Amendments to Family Proceedings Act 1980**

Section 34 amends the Family Proceedings Act 1980.

34 Section 31 amended (Grounds on which marriage or civil union void)

(1) After section 31(1)(a)(i), insert:

- (ia) at the time of the solemnisation of the marriage or civil union, 1 of the parties to the marriage or civil union was under the age of 16 years; or
- (ib) at the time of the solemnisation of the marriage, 1 of the parties to the marriage was aged 16 or 17 years and the consent of a Family Court Judge required under section 18 of the Marriage Act 1955 had not been obtained; or
- (ic) at the time of the solemnisation of the civil union, 1 of the parties to the civil union was aged 16 or 17 years and the consent of a Family Court Judge required under section 19 of the Civil Union Act 2004 had not been obtained; or

(2) In section 31(1)(b), delete “, in contravention of the Marriage Act 1955”.

Oranga Tamariki Act 1989

35 Amendment to Oranga Tamariki Act 1989

Section 36 amends the Oranga Tamariki Act 1989.

36 Section 116 amended (Review of guardian’s decision or refusal to give consent)

Repeal section 116(5).

District Court Rules 2014

37 Amendment to District Court Rules 2014

Section 38 amends the District Court Rules 2014.

38 Rule 20.13 amended (Application of this subpart)

Revoke rule 20.13(1)(r).

Family Court Rules 2002

39 Amendment to Family Court Rules 2002

Section 40 amends the Family Court Rules 2002.

40 Rule 38 amended (Service of applications under certain Acts)

Revoke rule 38(ab) and (c).

Schedule 1
New Schedule 1AA inserted in Marriage Act 1955

s 11

Schedule 1AA
Transitional, savings, and related provisions

s 2A

Part 1
Provisions relating to Minors (Court Consent to Relationships)
Legislation Act 2018

1 Interpretation

In this Part,—

2018 Act means the Minors (Court Consent to Relationships) Legislation Act 2018

commencement date means the day on which the 2018 Act comes into force.

2 Consents given under section 18 or 19 before commencement date

Consents given under section 18 or 19 before the commencement date continue to have effect as if the 2018 Act had not been enacted.

Schedule 2
New Schedule 1AA inserted in Civil Union Act 2004

s 17

Schedule 1AA
Transitional, savings, and related provisions

s 5A

Part 1
Provisions relating to Minors (Court Consent to Relationships)
Legislation Act 2018

1 Interpretation

In this Part,—

2018 Act means the Minors (Court Consent to Relationships) Legislation Act 2018

commencement date means the day on which the 2018 Act comes into force.

2 Consents given under section 19 or 20 before commencement date

Consents given under section 19 or 20 before the commencement date continue to have effect as if the 2018 Act had not been enacted.

Schedule 3
New Schedule 1AA inserted in Care of Children Act 2004

s 25

Schedule 1AA
Transitional, savings, and related provisions

s 11A

Part 1
Provisions relating to Minors (Court Consent to Relationships)
Legislation Act 2018

1 Interpretation

In this Part,—

2018 Act means the Minors (Court Consent to Relationships) Legislation Act 2018

commencement date means the day on which the 2018 Act comes into force.

2 Consents given under section 46A before commencement date

Consents given under section 46A before the commencement date continue to have effect as if the 2018 Act had not been enacted.

Schedule 4
New Schedule 1AA inserted in Citizenship Act 1977

s 29

Schedule 1AA
Transitional, savings, and related provisions

s 4B

Part 1
Provisions relating to Minors (Court Consent to Relationships)
Legislation Act 2018

1 Interpretation

In this Part,—

2018 Act means the Minors (Court Consent to Relationships) Legislation Act 2018

commencement date means the day on which the 2018 Act comes into force.

2 Consents given under section 3(5A)(b) before commencement date

Consents given under section 3(5A)(b)(i) or (ii) before the commencement date continue to have effect as if the 2018 Act had not been enacted.

Legislative history

13 April 2017	Introduction (Bill 256–1)
7 June 2017	First reading and referral to Justice and Electoral Committee
8 November 2017	Reinstated before Justice Committee
18 May 2018	Reported from Justice Committee (Bill 256–2)
27 June 2018	Second reading
25 July 2018	Committee of the whole House
8 August 2018	Third reading
13 August 2018	Royal assent

This Act is administered by the Ministry of Justice.