

Care of Children Amendment Act 2005

Public Act 2005 No 5
Date of assent 24 March 2005

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Care of Children Amendment Act 2005.
- (2) In this Act, the Care of Children Act 2004 is called “the principal Act”.

2 Commencement

This Act comes into force on 1 July 2005.

3 Amendments to principal Act in Schedule

The principal Act is amended in the manner set out in the Schedule.

Schedule

s 3

Amendments to principal Act

Section 8

Repeal the definitions of **de facto partner**, **de facto relationship**, and **partner of a parent**.

Insert in its appropriate alphabetical order:

“**spouse or partner of a parent** means, in relation to a child, a person who is not the child’s parent but—

“(a) who is or has been married to, or in a civil union or de facto relationship with, a parent of the child; and

“(b) who shares responsibility for the child’s day-to-day care with the parent.”

Section 9

Repeal.

Section 10

Repeal.

Section 17

Insert in subsections (2)(a) and (3)(a), after the words “married to” in both places where they appear, the words “, or in a civil union with,”.

Insert, after subsection (3):

“(3A) For the purposes of subsections (2) and (3), the mother and father of a child may be in a de facto relationship even if—

“(a) either parent is under 16; or

“(b) either parent is aged 16 or 17 and consent for the relationship (as referred to in section 29A(2) of the Interpretation Act 1999) has not been given.”

Heading to section 19

Insert, after the word “spouse”, the words “, civil union partner,”.

Heading above section 21

Repeal and substitute:

“Appointment of eligible spouse or partner of a parent as additional guardian”.

Section 21

Omit from subsection (1) the words “partner of a parent” and substitute the words “spouse or partner of a parent”.

Section 23

Omit from the heading the words “partner of parent” and substitute the words “spouse or partner of parent”.

Omit from subsections (1) and (2) the words “partner of a parent” wherever they appear and substitute in each case the words “spouse or partner of a parent”.

Omit from subsection (2) the words “and the partner” and substitute the words “and the spouse or partner”.

Section 24

Omit from paragraph (d)(ii) the words “partner of a parent” and substitute the words “spouse or partner of a parent”.

Section 28

Add to subsection (1)(b) the words “or enters into a civil union”.

Section 29

Omit from subsection (2)(e) the words “partner of a parent” and substitute the words “spouse or partner of a parent”.

Section 31

Omit from subsection (1)(a) the words “neither married nor living with a de facto partner” and substitute the words “not married, in a civil union, or in a de facto relationship”.

Omit from subsection (2)(d) the words “partner of a parent” and substitute the words “spouse or partner of a parent”.

Section 33

Add to subsection (2)(c) the words “or enters into a civil union”.

Section 36

Add to subsection (2)(a) the words “or in a civil union”.

Section 42

Omit the words “In section 41” and substitute the words “In this section and section 41”.

Section 44

Insert in subsection (2), after the word “spouses”, the words “, civil union partners,”.

Section 45

Insert in subsection (1), after the word “spouse”, the words “, civil union partner,”.

Omit from subsection (1) the words “or a child of the” and substitute the words “, civil union, or”.

Insert in subsection (2)(a), after the word “spouse”, the words “, civil union partner,”.

Insert in subsection (2)(b), after the word “spouses”, the words “, civil union partners,”.

Section 46

Repeal subsection (3) and substitute:

“(3) This section does not apply where a parent or guardian refuses to give consent to a child’s marriage, civil union, or entry into a de facto relationship. In those cases, sections 18 to 20 of the Marriage Act 1955, sections 19 and 20 of the Civil Union Act 2004, and section 46A of this Act, respectively, apply instead.”

New heading and sections 46A and 46B

Insert after section 46:

“Consent to certain decisions**“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 obtain the express written consent of each of his or her guardians to living together as a couple with the other party to the relationship.
- “(2) If the consent of a guardian cannot be obtained (whether because the guardian refuses to give consent, or cannot be found, or is unable to give consent as a result of incapacity), the child may apply to the Court for consent.
- “(3) A Family Court Judge may make an order giving consent for the de facto relationship of a child aged 16 or 17.
- “(4) A consent given by a Family Court Judge under this section has the same effect as if it had been given by all of the child’s guardians.

“46B Consent where child has no guardian

- “(1) This section applies to a child who does not have a guardian because guardianship of the child has ended under section 28(1).
- “(2) If an enactment requires that the child obtains the consent of 1 or more guardians for a particular purpose, the child may—
- “(a) seek the consent from his or her former guardians; or
- “(b) apply to the Court for the consent.
- “(3) When an application is made under subsection (2)(b), a Family Court Judge may, if he or she considers that giving the con-

sent is reasonable in all the circumstances, give the consent required.

- “(4) A consent given to a child for a purpose referred to in subsection (2), either by the child’s former guardians or by a Family Court Judge under subsection (3), has the same effect as if it had been given by all the people whose consent was required for that purpose.”

Section 47

Omit from subsection (1)(c) the words “partner of a parent” and substitute the words “spouse or partner of a parent”.

Section 53

Insert in subsection (1), after the word “marriage” in both places where it appears, the words “or civil union”.

Insert in subsection (2), after the word “marriage”, the words “or a child of the civil union”.

Section 66

Insert, after the word “marriage” in each place where it appears, the words “, civil union,”.

Section 126

Omit from subsection (3) the words “partner of a parent” and substitute the words “spouse or partner of a parent”.

Section 129

Omit from subsection (2) the words “the husband or wife” and substitute the words “a spouse or civil union partner”.

Schedule 4

Omit all the items relating to the Births, Deaths, and Marriages Registration Act 1995 and substitute:

“Insert in the heading to section 15, after the words ‘in civil union’ the words ‘or de facto relationship’.

“Insert in section 15(1), after the words ‘civil union’, the words ‘or de facto relationship’.

“Insert after section 15(1):

“(1A Section 17(3A) of the Care of Children Act 2004 applies when determining for the purposes of this section whether a child’s mother and father were in a de facto relationship at the relevant time.’ ”

“Omit from section 15(3)(b)(vi) the words ‘section 6(3) or section 6A of the Guardianship Act 1968’ and substitute the words ‘section 19 or section 20 of the Care of Children Act 2004’.

“Omit from the heading to section 22 the expression ‘Guardianship Act 1968’ and substitute the expression ‘Care of Children Act 2004’.

“Omit from section 22 the words ‘section 13(1) or section 14(1) of the Guardianship Act 1968’ and substitute the words ‘section 44(3) or section 46(1) of the Care of Children Act 2004’.

Omit the item and heading relating to the Marriage Act 1955.

Omit the item and heading relating to the Minors’ Contracts Act 1969.

Omit the item relating to section 6(2) of the Protection of Personal and Property Rights Act 1988 and substitute:

“Repeal section 6(2) and substitute:

“(2 Subject to section 12(3), no Court has jurisdiction under this Part in respect of a person who has not attained the age of 18 years and who—

“ ‘(a) is not, and never has been, married or in a civil union; or

“ ‘(b) is 16 years old or older and is not living, and never has lived, with another person as a de facto partner’ ”.

Omit the item relating to section 12(3) of the Protection of Personal and Property Rights Act 1988.

Legislative history

10 March 2005

Divided from Relationships (Statutory References)

Bill (Bill 151-2) as Bill 151-3B

15 March 2005

Third reading
