

**Reprint
as at 31 March 2014**



**Family Courts Amendment Act
2008**

Public Act 2008 No 78
Date of assent 16 September 2008
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Family Courts Amendment Act 2008.

2 Commencement

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (2) One or more Orders in Council may be made appointing different dates for the commencement of different provisions and for different purposes.

Section 2: Family Courts Amendment Act 2008 (except sections 4 and 5) brought into force, on 18 May 2009, by the Family Courts Amendment Act 2008 Commencement Order 2009 (SR 2009/81).

3 Principal Act amended

This Act amends the Family Courts Act 1980.

4 New sections 7A and 7B inserted

[Repealed]

Section 4: repealed (without coming into force), on 31 March 2014, by section 17A of the Family Courts Act 1980 (1980 No 161).

5 Counselling supervisors, counsellors, and other officers

[Repealed]

Section 5: repealed (without coming into force), on 31 March 2014, by section 17A of the Family Courts Act 1980 (1980 No 161).

6 Avoidance of unnecessary formality

Section 10 is amended by repealing subsection (2) and substituting the following subsections:

- “(2) A Judge sitting in a Family Court may wear a gown, but must not wear a wig.

“(3) A lawyer appearing in a Family Court must not wear a gown or a wig.”

7 New sections 11A to 11D inserted

The following sections are inserted after section 11:

“11A Attendance at hearings

“(1) Unless the Act under which proceedings are brought provides otherwise, the only persons who may attend a hearing of proceedings in a Family Court are as follows:

“(a) officers of the Court:

“(b) parties to the proceedings:

“(c) lawyers representing parties to the proceedings:

“(d) witnesses:

“(e) accredited news media reporters:

“(f) persons whom the Family Court Judge permits to be present as support persons for a party on a request by that party:

“(g) any other persons whom the Family Court Judge permits to be present.

“(2) The Family Court Judge must agree to a request under subsection (1)(f) unless the Judge considers there is a good reason why the named support persons should not be permitted to be present.

“(3) No support persons may help a party conduct his or her case.

“(4) If, during a hearing, the Family Court Judge requests a person of any of the following kinds to leave the courtroom, the person must do so:

“(a) a witness:

“(b) an accredited news media reporter:

“(c) a support person whom the Judge permitted to be present under subsection (1)(f).

“(5) Nothing in this section limits any other power of the Court—

“(a) to hear proceedings in private; or

“(b) to permit a McKenzie friend to be present; or

“(c) to exclude any person from the Court.

“11B Publication of reports of proceedings

- “(1) Any person may publish a report of proceedings in a Family Court.
- “(2) Subsection (1) is subject to subsection (3).
- “(3) A person may not, without the leave of the Court, publish a report of proceedings in a Family Court that includes identifying information where—
- “(a) a person under the age of 18 years—
 - “(i) is the subject of the proceedings; or
 - “(ii) is a party to the proceedings; or
 - “(iii) is an applicant in the proceedings; or
 - “(iv) is referred to in the proceedings; or
 - “(b) a vulnerable person—
 - “(i) is the subject of the proceedings; or
 - “(ii) is a party to the proceedings; or
 - “(iii) is an applicant in the proceedings.
- “(4) However, subsection (3) does not apply to—
- “(a) a report of proceedings in a publication that—
 - “(i) is genuinely of a professional or technical nature (including a publication that is intended for circulation among members of the legal or medical professions, officers of the Public Service, psychologists, counsellors, mediators, or social workers); and
 - “(ii) does not include the name of—
 - “(A) any person under the age of 18 years who is the subject of the proceedings, or who is referred to in the proceedings;
 - “(B) any vulnerable person who is the subject of the proceedings;
 - “(C) any parties or applicants in the proceedings where subsubparagraph (A) or (B) applies;
 - “(D) any school that a person who is the subject of proceedings under the Children, Young Persons, and Their Families Act 1989 is or was attending, or any other particulars likely to lead to the identification of that school;

- “(b) a publication of statistical information relating to the proceedings.
- “(5) The Court may grant leave under subsection (3) with or without conditions.
- “(6) Every person who contravenes this section commits an offence against this Act and is liable on summary conviction,—
 - “(a) in the case of an individual, either to imprisonment for a term not exceeding 3 months, or to a fine not exceeding \$2,000;
 - “(b) in the case of a body corporate, to a fine not exceeding \$10,000.
- “(7) Subsection (6) does not limit the power of a court to punish any contempt of Court.
- “(8) This section is subject to any other enactment relating to the publication or regulation of the publication of reports or particulars of a Family Court proceeding.

“**11C Meaning of identifying information**

- “(1) For the purposes of section 11B, **identifying information** means information relating to proceedings that includes any name or particulars likely to lead to the identification of any of the following persons:
 - “(a) a party to the proceedings;
 - “(b) an applicant in the proceedings;
 - “(c) a person who is the subject of the proceedings;
 - “(d) a person who is related to, or associated with, a person referred to in paragraphs (a) to (c) or who is, or may be, in any other way concerned in the matter to which the proceedings relate (for example, a support person for a party).
- “(2) For the purposes of section 11B in relation to proceedings under the Children, Young Persons, and Their Families Act 1989, **identifying information** also includes the name or particulars likely to lead to the identification of any school that a person the subject of the proceedings is or was attending.

“**11D Meaning of vulnerable person**

For the purposes of section 11B, **vulnerable person** means—

- “(a) a person in respect of whom a Family Court has jurisdiction under Part 1 or 3 of the Protection of Personal and Property Rights Act 1988:
- “(b) a person in respect of whom a personal order has been made under the Protection of Personal and Property Rights Act 1988:
- “(c) a person subject to a property order under the Protection of Personal and Property Rights Act 1988:
- “(d) a donor of an enduring power of attorney who is involved in proceedings under Part 9 of the Protection of Personal and Property Rights Act 1988:
- “(e) a person who is a proposed patient, patient, or restricted patient within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992:
- “(f) a person who has applied to a Family Court for the issue of a declaration under section 28 of the Births, Deaths, and Marriages Registration Act 1995:
- “(g) a person who is a proposed care recipient or care recipient within the meaning of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003:
- “(h) a person who has applied for a protection order under the Domestic Violence Act 1995, or in respect of whom a protection order has been made under that Act:
- “(i) a person whom the Court considers likely for any other reason to be particularly susceptible to any adverse consequences associated with the publication of a report of the proceedings that contains identifying information.”

8 Family Courts Rules

Section 16A(2)(b) is repealed.

9 New sections 16B and 16C inserted

The following sections are inserted after section 16A:

“16B Regulations

- “(1) The Governor-General may, from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - “(a) prescribing fees payable in respect of proceedings, or intended proceedings, in a Family Court:

- “(b) in order to promote access to justice, empowering Registrars or Deputy Registrars of Family Courts to waive, reduce, or postpone the payment of a fee required in connection with a proceeding or an intended proceeding, or to refund, in whole or in part, such a fee that has already been paid, if satisfied on the basis of criteria specified under paragraph (c) that—
 - “(i) the person otherwise responsible for payment of the fee is unable to pay or absorb the fee in whole or in part; or
 - “(ii) unless one or more of those powers are exercised in respect of a proceeding that concerns a matter of genuine public interest, the proceeding is unlikely to be commenced or continued:
- “(c) prescribing, for the purposes of the exercise of a power under paragraph (b), the criteria—
 - “(i) for assessing a person’s ability to pay a fee; and
 - “(ii) for identifying proceedings that concern matters of genuine public interest:
- “(d) empowering Registrars or Deputy Registrars of Family Courts to postpone the payment of a fee pending the determination of—
 - “(i) an application for the exercise of a power specified in paragraph (b); or
 - “(ii) an application for review under section 16C:
- “(e) providing for the postponement of the payment of a fee, including (without limitation) providing—
 - “(i) for the recovery of the fee after the expiry of the period of postponement; and
 - “(ii) for restrictions to apply (after the expiry of the period of postponement and so long as the fee remains unpaid) on the steps that may be taken in the proceedings in respect of which the fee is payable:
- “(f) providing for the manner in which an application for the exercise of a power specified in paragraph (b) or (d) is to be made, including, without limitation, requiring such an application to be in a form approved for the purpose by the chief executive of the Ministry of Justice:

- “(g) prescribing the qualifications required to be held by persons appointed as Senior Family Court Registrars.
 - “(2) No fee is payable for an application for the exercise of a power specified in subsection (1)(b) or (d).
- “**16C Reviews of decisions of Registrars concerning fees**
- “(1) Any person who is aggrieved by a decision of a Registrar or Deputy Registrar under regulations made under section 16B(1)(b) may apply to a Family Court Judge for a review of that decision.
 - “(2) An application under subsection (1) may be made within—
 - “(a) 20 working days after the date on which the applicant is notified of the decision of the Registrar or Deputy Registrar; or
 - “(b) any further time that the Judge allows on application made for that purpose either before or after the expiration of that period.
 - “(3) The application may be made informally.
 - “(4) The review—
 - “(a) must be conducted by rehearing; and
 - “(b) may be dealt with on the papers, unless the Judge decides otherwise.
 - “(5) The Judge may confirm, modify, or reverse the decision.
 - “(6) No fee is payable for an application under this section.”
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Reprints notes

1 *General*

This is a reprint of the Family Courts Amendment Act 2008 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Family Courts Amendment Act 2008 Commencement Order 2009 (SR 2009/81)

Family Courts Act 1980 (1980 No 161): section 17A
