

# **Royal Succession Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

#### *Co-ordinated change to rules of Royal succession*

This Bill implements changes to rules of Royal succession. The changes have been agreed by the 16 Realms of which Her Majesty the Queen is Sovereign. Most of the changes were approved in principle at a meeting on 28 October 2011, coinciding with the Perth Commonwealth Heads of Government Meeting. The rest were agreed through later discussions among the Realms. The changes modernise historic Royal succession rules, in particular by removing various aspects of gender and religious discrimination in the line of succession.

The changes are being implemented in a co-ordinated manner with the other Realms to ensure all Realms have consistent succession laws and the Bill's commencement will allow for concurrent implementation with the other Realms.

#### *Abolition of precedence of younger brothers over older sisters*

The Bill ensures that Royal succession is not dependent on a person's sex, and so allows an older daughter to precede a younger son in the line of succession. Regardless of when the Bill is enacted, this

change will apply for all Royal births occurring after midnight on 28 October 2011 (GMT), the close of the day on which this change was agreed upon in principle by and among the Realms.

*Abolition of exclusions of people who marry  
Roman Catholic*

The Bill removes the current restrictions that bar from the throne people married to a Roman Catholic. These barriers can no longer be justified and there are no other restrictions about the religion of the spouse of a person in the line of succession. This change will apply to all marriages where the person concerned is alive, thereby reinstating some people into the line of succession.

*Sovereign's consent to, and invalidity of,  
certain Royal marriages*

The Bill abolishes the requirement of the Royal Marriages Act 1772 that all descendants of King George II must seek the Sovereign's consent to marry. It also introduces a new requirement that the first 6 people in line to the throne must seek the Sovereign's consent to marry. There are likely hundreds of descendants of King George II who were, or are, unaware of the marriage consent requirements of the Royal Marriages Act 1772 and whose marriages are technically invalid. The Bill therefore also validates relevant earlier marriages for purposes other than Royal succession, so long as they meet specified conditions. These 2 changes were not announced in the agreement among Realms in October 2011, but have since been agreed to through later discussions among the Realms.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* relates to commencement. *Parts 1 and 2* are, for synchronisation with other Commonwealth Realms, to be brought into force by an Order in Council. One or more orders may be made appointing different times and days for different provisions. Each order is to be amendable or revocable before the time and day appointed for each provision (the **changeover**). The rest of the Bill comes into force on the day after Royal assent.

## **Part 1**

### **Formal and substantive provisions**

#### *Formal provisions*

*Clause 3* states the Bill's purpose.

*Clause 4* ensures that the Act binds the Crown.

#### *Substantive provisions*

*Clause 5* abolishes the precedence of younger brothers over older sisters in relation to succession to the Crown. *Clause 5(1)* ensures that, in the determination of the succession to the Crown, no regard is to be had to the sex of any person born after 1 pm on 29 October 2011 (New Zealand daylight time). This is midnight on 28 October 2011 (GMT). *Clause 5(2)* abolishes, to the extent that it conflicts with *clause 5(1)*, the common law rule by which a younger brother or a descendant of his has, in relation to succession to the Crown, precedence over an older sister or a descendant of hers.

*Clause 6* abolishes the exclusions from succession to and possession of the Crown of people who marry a person of the Roman Catholic faith. It ensures that no person is excluded from succeeding to or possessing the Crown by virtue only of marrying, after the changeover, a person of the Roman Catholic faith.

*Clause 7* restores to succession to and possession of the Crown certain people who have married a person of the Roman Catholic faith. It ensures that no person alive immediately before the changeover is excluded from succeeding to or possessing the Crown by virtue only of having married, before the changeover, a person of the Roman Catholic faith.

*Clause 8* requires a person who after the changeover proposes to marry, and who immediately before marrying is one of the 6 people next in the line of succession to the Crown, to obtain before marrying the consent to the marriage concerned of the Sovereign in right of the United Kingdom of Great Britain and Northern Ireland. *Clause 8* is to take the place of the Royal Marriages Act 1772, because that Imperial constitutional enactment is to cease to be part of the laws of New Zealand (*see clause 12*).

*Clause 9* validates certain marriages of descendants of George II that, but for *clause 9*, would be null and void under the Royal Marriages Act 1772. The validation is for all purposes other than purposes re-

lating to succession to the Crown. The conditions of the validation of a marriage of that kind are as follows:

- at the time the marriage was solemnised, neither party was one of the 6 people next in the line of succession to the Crown; and
- at the time the marriage was solemnised, the (or each) party descended from His late Majesty King George the Second was unaware, and it was reasonable in all the circumstances for that (or for each such) party not to be aware, that that Act applied to it; and
- before the changeover, no person has acted on the basis that the marriage was void.

A party to the marriage is, for the purposes of *clause 9* (but without limiting *clause 9(1)(b)*), aware that that Act applied to it if consent under section 1 of that Act to the marriage was sought before it was solemnised (whether or not notice was also given under section 2 of that Act relating to the marriage before it was solemnised).

## **Part 2**

### **Application in New Zealand of Imperial Acts**

*Clause 10* adjusts section 1 of the Bill of Rights 1688 so far as it is part of the laws of New Zealand.

*Clause 11* adjusts the Preamble and section 2 of the Act of Settlement 1700 so far as they are part of the laws of New Zealand.

*Clause 12* ensures that, on the changeover, the Royal Marriages Act 1772 ceases (as if it were an Act of the New Zealand Parliament that were repealed) to be part of the laws of New Zealand.

*Clause 13* makes consequential amendments to Schedule 1 of the Imperial Laws Application Act 1988.

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*Hon Judith Collins*

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### **Contents**

		Page
1	Title	2
2	Commencement	2
<b>Part 1</b>		
<b>Formal and substantive provisions</b>		
<i>Formal provisions</i>		
3	Purpose	2
4	Act binds the Crown	3
<i>Substantive provisions</i>		
5	Precedence of younger brothers over older sisters in relation to succession to the Crown abolished	3
6	Exclusions from succession to and possession of the Crown of people who marry Roman Catholic abolished	3
7	Restoration to succession to and possession of the Crown of certain people who have married Roman Catholic	3
8	Certain people excluded from succession to the Crown on marrying without consent of Sovereign	4
9	Certain marriages of descendants of George II validated	4
<b>Part 2</b>		
<b>Application in New Zealand of Imperial Acts</b>		
10	Application of Bill of Rights 1688	5
11	Application of Act of Settlement 1700	5
12	Application of Royal Marriages Act 1772	5

13	Imperial Laws Application Act 1988 amended	5
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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Royal Succession Act **2013**.

**2 Commencement**

- (1) **Parts 1 and 2** come into force at a time, and on a day, to be appointed by the Governor-General by Order in Council. 5
- (2) One or more orders may be made appointing different times and days for different provisions.
- (3) Before the time and day appointed for a provision by an order under **subsection (1)** (in this Act called the **changeover**), the order may be amended or revoked. 10
- (4) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

**Part 1**

**Formal and substantive provisions**

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*Formal provisions*

**3 Purpose**

The purpose of this Act is—

- (a) to implement in New Zealand law changes to the rules of Royal succession approved in principle at a meeting on 28 October 2011, coinciding with the Commonwealth Heads of Government Meeting in Perth, Australia, or agreed through later discussions among the Sovereign's Realms: 20
- (b) to provide for the succession to the Crown to be determined without regard to the sex of people born after 1 pm on 29 October 2011 (New Zealand daylight time): 25
- (c) to abolish the exclusions from the succession to and possession of the Crown of people who marry a person of the Roman Catholic faith: 30

- (d) to provide for the Royal Marriages Act 1772 to cease to be part of the laws of New Zealand, and to enact in its place provisions requiring the consent of the Sovereign in right of the United Kingdom of Great Britain and Northern Ireland to the marriage of any person at a time when the person is one of the 6 people next in the line of succession to the Crown: 5
- (e) to validate (for purposes other than succession to the Crown purposes) certain marriages solemnised without awareness of, and compliance with, the requirements of the Royal Marriages Act 1772. 10

**4 Act binds the Crown**

This Act binds the Crown.

*Substantive provisions*

**5 Precedence of younger brothers over older sisters in relation to succession to the Crown abolished** 15

- (1) In the determination of the succession to the Crown, no regard is to be had to the sex of any person born after 1 pm on 29 October 2011 (New Zealand daylight time).
- (2) The rule of law by which a younger brother or a descendant of his has, in relation to succession to the Crown, precedence over an older sister or a descendant of hers is abolished to the extent that it conflicts with **subsection (1)**. 20

**6 Exclusions from succession to and possession of the Crown of people who marry Roman Catholic abolished** 25

No person is excluded from succeeding to or possessing the Crown by virtue only of marrying, after the changeover, a person of the Roman Catholic faith.

**7 Restoration to succession to and possession of the Crown of certain people who have married Roman Catholic** 30

No person alive immediately before the changeover is excluded from succeeding to or possessing the Crown by virtue only of having married, before the changeover, a person of the Roman Catholic faith.

**8 Certain people excluded from succession to the Crown on marrying without consent of Sovereign**

- (1) A person who after the changeover proposes to marry, and who immediately before marrying is one of the 6 people next in the line of succession to the Crown, must obtain before marrying the consent to the marriage concerned of the Sovereign in right of the United Kingdom of Great Britain and Northern Ireland. 5
- (2) The effect of a person's failure to comply with **subsection (1)** is that the person and the person's descendants from the marriage concerned are excluded from succeeding to the Crown. 10

**9 Certain marriages of descendants of George II validated**

- (1) The Royal Marriages Act 1772 must, for all purposes other than purposes relating to succession to the Crown, be treated as never having applied to a marriage (being a marriage that, but for this section, would under that Act be null and void to all intents and purposes whatsoever) if,— 15
- (a) at the time the marriage was solemnised, neither party was one of the 6 people next in the line of succession to the Crown; and
- (b) at the time the marriage was solemnised, the (or each) party descended from His late Majesty King George the Second was unaware, and it was reasonable in all the circumstances for that (or for each such) party not to be aware, that that Act applied to it; and 20
- (c) before the changeover, no person has acted on the basis that the marriage was void. 25
- (2) A party to the marriage is, for the purposes of this section, aware that that Act applied to it if consent under section 1 of that Act to the marriage was sought before it was solemnised (whether or not notice was also given under section 2 of that Act relating to the marriage before it was solemnised). 30
- (3) **Subsection (2)** does not limit **subsection (1)(b)**.



## Part 2

### Application in New Zealand of Imperial Acts

- 10 Application of Bill of Rights 1688** 5
- The Bill of Rights 1688 (1 Will and Mar Sess 2, c 2) continues to be part of the laws of New Zealand, but as if, on the changeover, it had been amended by deleting from section 1—
- (a) “or by any King or Queene marrying a Papist”; and
  - (b) “or shall marry a Papist”; and
  - (c) “or marrying”. 10
- 11 Application of Act of Settlement 1700**
- The Act of Settlement 1700 (12 and 13 Will 3, c 2) continues to be part of the laws of New Zealand, but as if, on the changeover, it had been amended by—
- (a) deleting from the Preamble “or marry a Papist” and “or marrying”; and 15
  - (b) deleting from section 2 “or shall marry a Papist”.
- 12 Application of Royal Marriages Act 1772**
- (1) On the changeover, the Royal Marriages Act 1772 ceases to be part of the laws of New Zealand. 20
  - (2) Sections 17 to 19 and 21 of the Interpretation Act 1999 apply to the Royal Marriages Act 1772 as if it were an Act of the Parliament of New Zealand and **subsection (1)** had repealed it on the changeover.
- 13 Imperial Laws Application Act 1988 amended** 25
- (1) This section consequentially amends the Imperial Laws Application Act 1988.
  - (2) In Schedule 1,—
    - (a) in the item relating to the Bill of Rights 1688, after “(6 Geo 4, c 50)”, insert “and **section 10** of the Royal Succession Act **2013**”; and 30
    - (b) in the item relating to the Act of Settlement 1700,—
      - (i) after “Preamble”, insert “(as amended by **section 11(a)** of the Royal Succession Act **2013**)”; and 35

- (ii) after “(10 Edw 7 and 1 Geo 5, c 29)”, insert “(and **section 11(b)** of the Royal Succession Act **2013**)”; and
- (c) repeal the item relating to the Royal Marriages Act 1772.

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