

**Reprint  
as at 1 January 1981**



**Domicile Act 1976**

Public Act    1976 No 17  
Date of assent    31 August 1976  
Commencement    see section 1(2)

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Justice.**

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**An Act to abolish the dependent domicile of married women and otherwise to reform the law relating to domicile**

**1 Short Title and commencement**

- (1) This Act may be cited as the Domicile Act 1976.
- (2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

Section 1(2): this Act brought into force, on 1 January 1981, by the Domicile Act Commencement Order 1980 (SR 1980/242).

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**country** means a territory of a type in which, immediately before the commencement of this Act, a person could have been domiciled

**union** means a nation comprising 2 or more countries.

**3 Domicile before commencement**

The domicile that a person had at a time before the commencement of this Act shall be determined as if this Act had not been passed.

**4 Domicile after commencement**

The domicile that a person has at a time after the commencement of this Act shall be determined as if this Act had always been in force.

**5 Wife's dependent domicile abolished**

- (1) Every married person is capable of having an independent domicile; and the rule of law whereby upon marriage a woman acquires her husband's domicile and is thereafter during the subsistence of the marriage incapable of having any other domicile is hereby abolished.
- (2) This section applies to the parties to every marriage, wherever and pursuant to whatever law solemnised, and whatever the domicile of the parties at the time of the marriage.

**6 Children**

- (1) This section shall have effect in place of all rules of law relating to the domicile of children.
- (2) In this section **child** means a person under the age of 16 years who has not married.
- (3) A child whose parents are living together has the domicile for the time being of its father.
- (4) If a child whose parents are not living together has its home with its father it has the domicile for the time being of its father; and after it ceases to have its home with him it continues to have that domicile (or, if he is dead, the domicile he had at his death) until it has its home with its mother.
- (5) Subject to subsection (4), a child whose parents are not living together has the domicile for the time being of its mother (or, if she is dead, the domicile she had at her death).
- (6) Until a foundling child has its home with one of its parents, both its parents shall, for the purposes of this section, be deemed to be alive and domiciled in the country in which the foundling child was found.

**7 Attainment of independent domicile**

Subject to any rule of law relating to the domicile of insane persons, every person becomes capable of having an independent domicile upon attaining the age of 16 years or sooner marrying, and thereafter continues so to be capable.

**8 Domicile to continue**

The domicile a person has immediately before becoming capable of having an independent domicile continues until he acquires a new domicile in accordance with section 9, and then ceases.

**9 Acquisition of new domicile**

A person acquires a new domicile in a country at a particular time if, immediately before that time,—

- (a) he is not domiciled in that country; and
- (b) he is capable of having an independent domicile; and
- (c) he is in that country; and

(d) he intends to live indefinitely in that country.

**10 Deemed intention**

A person who ordinarily resides and intends to live indefinitely in a union but has not formed an intention to live indefinitely in any one country forming part of the union shall be deemed to intend to live indefinitely—

- (a) in that country forming part of the union in which he ordinarily resides; or
- (b) if he does not ordinarily reside in any such country, in whichever such country he is in; or
- (c) if he neither ordinarily resides nor is in any such country, in whichever such country he was last in.

**11 Domicile of origin not to revive**

A new domicile acquired in accordance with section 9 continues until a further new domicile is acquired in accordance with that section; and the rule of law known as the revival of domicile of origin whereby a person's domicile of origin revives upon his abandoning a domicile of choice is hereby abolished.

**12 Standard of proof**

The standard of proof which, immediately before the commencement of this Act, was sufficient to show the abandonment of a domicile of choice and the acquisition of another domicile of choice shall be sufficient to show the acquisition of a new domicile in accordance with section 9.

**13 Domicile in unions**

A person domiciled in a country forming part of a union is also domiciled in that union.

**14 Consequential amendments and repeals**

*Amendment(s) incorporated in the Act(s).*

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## **Notes**

### **1 *General***

This is a reprint of the Domicile Act 1976. The reprint incorporates all the amendments to the Act as at 1 January 1981, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Domicile Act Commencement Order 1980 (SR 1980/242)

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