

Version
as at 28 October 2021



Family Court Act 1980

Public Act	1980 No 161
Date of assent	21 January 1981
Commencement	see section 1

Act title: replaced, on 1 March 2017, by section 249(a) of the District Court Act 2016 (2016 No 49).

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

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Title *[Repealed]*

Title: repealed, on 1 March 2017, by section 250 of the District Court Act 2016 (2016 No 49).

1 Title and commencement

- (1) This Act is the Family Court Act 1980.
- (2) Except as provided in subsection (3), this Act shall come into force on 1 October 1981.
- (3) Section 6 shall come into force on the date on which this Act receives the Governor-General's assent.

Section 1 heading: amended, on 1 March 2017, by section 251(1) of the District Court Act 2016 (2016 No 49).

Section 1(1): amended, on 1 March 2017, by section 251(2) of the District Court Act 2016 (2016 No 49).

1A Purpose

The purpose of this Act is to—

- (a) establish a Family Court as a division of the District Court; and
- (b) provide for the constitution, jurisdiction, powers, and procedures of the Family Court.

Section 1A: inserted, on 1 March 2017, by section 252 of the District Court Act 2016 (2016 No 49).

2 Interpretation

In this Act, unless the context otherwise requires,—

District Court Rules means the rules made under section 228 of the District Court Act 2016

Family Court Judge includes the Principal Family Court Judge

Family Court Rules means the rules made under section 16A.

Section 2: replaced, on 13 September 2002, by section 3 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 2 **District Court Rules**: inserted, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2 **District Courts Rules**: repealed, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2 **Family Court Rules**: inserted, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2 **Family Courts Rules**: repealed, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

3 Act to bind the Crown

This Act shall bind the Crown.

4 Establishment of Family Court

The District Court has a division known as the Family Court.

Section 4: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

5 Appointment of Family Court Judges

- (1) The Governor-General shall from time to time, by warrant under his hand, appoint sufficient Family Court Judges to exercise the jurisdiction of the Family Court.
- (2) A person shall not be appointed to be a Family Court Judge unless—
 - (a) he is, or is eligible to be, a District Court Judge; and
 - (b) he is, by reason of his training, experience, and personality, a suitable person to deal with matters of family law.
- (3) If the appointee is not, at the time of his appointment, a District Court Judge, he shall be appointed to that office.
- (4) Notwithstanding his appointment as a Family Court Judge, any Family Court Judge may from time to time sit as or exercise any of the powers of a District Court Judge.
- (5) Subject to subsection (6), every Family Court Judge shall hold that office so long as he holds office as a District Court Judge.

- (6) With the prior approval of the Governor-General, any Family Court Judge may resign that office without resigning his office as a District Court Judge.

Section 5(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

6 Principal Family Court Judge

- (1) The Governor-General must, on the advice of the Attorney-General, appoint a Principal Family Court Judge.
- (2) The appointment must be for a period of 8 years, and the person is not eligible for reappointment.
- (3) A person's appointment as Principal Family Court Judge ceases if he or she ceases to hold office as a District Court Judge.
- (4) With the prior approval of the Governor-General, the Principal Family Court Judge may resign that office but continue in office as a District Court Judge.
- (5) To avoid doubt, a person does not cease to hold office as a District Court Judge solely because the term of the person's appointment as Principal Family Court Judge has come to an end.
- (6) Despite subsection (2), the Principal Family Court Judge continues in office until his or her successor comes into office.
- (7) The Principal Family Court Judge is responsible for ensuring the orderly and expeditious discharge of the business of the court in consultation with the Chief District Court Judge.

Section 6: replaced, on 20 May 2004, by section 3 of the Family Courts Amendment Act 2004 (2004 No 44).

7 Acting Family Court Judges

- (1) The Chief District Court Judge may authorise a Family Court Judge to act in place of the Principal Family Court Judge if—
- (a) the Principal Family Court Judge is absent for any reason; or
 - (b) the office of the Principal Family Court Judge is vacant.
- (2) The Governor-General may at any time during the illness or absence of any Family Court Judge, or for any other temporary purpose, by warrant under his hand, appoint 1 or more District Court Judges (including any Judge appointed under section 31 of the District Court Act 2016) to be a Family Court Judge or Family Court Judges to hold office for such time as is specified in the warrant.

Section 7(1): replaced, on 1 March 2017, by section 4 of the Family Courts Amendment Act 2016 (2016 No 63).

Section 7(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

8 Counselling supervisors, counsellors, and other officers

- (1) There shall from time to time be appointed under the Public Service Act 2020, as an officer of the Ministry of Justice, a person whose principal responsibility shall be to perform such duties as the chief executive of the Ministry of Justice may direct to facilitate the proper functioning of the Family Court and of counselling and related services.
- (2) Without limiting subsection (1), there may from time to time be appointed under the Public Service Act 2020 such counselling supervisors, counsellors, and other officers as may be necessary to enable the Family Court to perform any function conferred on it by any enactment.
- (3) Every such counselling supervisor, counsellor, and other officer, while performing any duty under the auspices of the Family Court, is for the purposes of the District Court Act 2016 an officer of that court.

Section 8(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 8(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 8(1): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Section 8(1): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

Section 8(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 8(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 8(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

9 Stationing of Judges and sittings of courts

- (1) Each Family Court Judge shall be stationed in such town and shall sit in such court as may from time to time be determined by the Principal Family Court Judge.
- (2) Notwithstanding anything in subsection (1), the fact that a Family Court Judge sits in any particular court shall be conclusive evidence of his authority to do so, and no exercise of any jurisdiction or power by a Family Court Judge shall be questioned on the ground that he was not stationed in the town or authorised to sit in the court where he exercised the jurisdiction or power.
- (3) Subject to subsection (4), sessions of the Family Court for the dispatch of its business shall be held on such days and at such times as may be appointed by the Judge exercising the jurisdiction of the court at the place at which the sessions are held.
- (4) The days appointed for regular sessions of the Family Court are subject to the approval of the Principal Family Court Judge.

- (5) In exercising his powers under this section, the Principal Family Court Judge shall consult with the Chief District Court Judge.
- (6) This section is subject to section 24 of the District Court Act 2016.
Section 9(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).
Section 9(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).
Section 9(6): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

9A Duty of lawyers to promote conciliation

- (1) A lawyer acting for a party in any proceeding in the Family Court must, so far as possible, promote conciliation.
- (2) In subsection (1), **party** includes a proposed party.
Section 9A: inserted, on 31 March 2014, by section 4 of the Family Courts Amendment Act 2013 (2013 No 78).

9B Role of lawyer appointed to represent child or young person in proceedings

- (1) The role of a lawyer who is appointed to represent a child or young person in proceedings is to—
 - (a) act for the child or young person in the proceedings in a way that the lawyer considers promotes the welfare and best interests of the child or young person:
 - (b) ensure that any views expressed by the child or young person to the lawyer on matters affecting the child or young person and relevant to the proceedings are communicated to the court:
 - (c) assist the parties to reach agreement on the matters in dispute in the proceedings to the extent to which doing so is in the best interests of the child or young person:
 - (d) provide advice to the child or young person, at a level commensurate with that child's or young person's level of understanding, about—
 - (i) any right of appeal against a decision of the court; and
 - (ii) the merits of pursuing any such appeal:
 - (e) undertake any other task required by or under any other Act.
- (2) To facilitate the role set out in subsection (1)(b), the lawyer must meet with the child or young person and, if it is appropriate to do so, ascertain the child's or young person's views on matters affecting the child or young person relevant to the proceedings.
- (3) However, subsection (2) does not apply if, because of exceptional circumstances, a Judge directs that it is inappropriate for the lawyer to meet with the child or young person.

- (4) A lawyer appointed to represent a child or young person in proceedings may—
- (a) call any person as a witness in the proceedings:
 - (b) cross-examine witnesses called by any party to the proceedings or by the court.

Section 9B: inserted, on 31 March 2014, by section 4 of the Family Courts Amendment Act 2013 (2013 No 78).

9C Role of lawyer appointed to assist court

- (1) The role of a lawyer who is appointed to assist the court in proceedings is to—
- (a) provide independent legal advice to the court on any complex factual or legal issue requested by the court:
 - (b) offer an impartial perspective in relation to any issue arising in the proceedings:
 - (c) undertake any other task required by or under any other Act.
- (2) A lawyer appointed to assist the court in proceedings may—
- (a) call any person as a witness in the proceedings:
 - (b) cross-examine witnesses called by any party to the proceedings or by the court.

Section 9C: inserted, on 31 March 2014, by section 4 of the Family Courts Amendment Act 2013 (2013 No 78).

10 Avoidance of unnecessary formality

- (1) Family Court proceedings shall be conducted in such a way as to avoid unnecessary formality.
- (2) A Judge sitting in the Family Court may wear a gown, but must not wear a wig.
- (3) A lawyer appearing in the Family Court must not wear a gown or a wig.

Section 10(2): replaced, on 18 May 2009, by section 6 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 10(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 10(3): inserted, on 18 May 2009, by section 6 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 10(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

11 Jurisdiction of Family Court

- (1) The Family Court must hear and determine all the proceedings that are to be heard and determined by the court under or by virtue of any of the provisions of—
- (a) the Marriage Act 1955:
 - (b) the Adoption Act 1955:
 - (c) the Care of Children Act 2004:

- (d) the Domestic Actions Act 1975:
 - (e) the Property (Relationships) Act 1976:
 - (f) the Family Proceedings Act 1980:
 - (g) the Child Support Act 1991:
 - (ga) the Oranga Tamariki Act 1989:
 - (gb) the Law Reform (Testamentary Promises) Act 1949:
 - (gc) the Family Protection Act 1955:
 - (gd) the Wills Act 2007:
 - (gd) the Civil Union Act 2004:
 - (h) any other enactment for the time being in force.
- (1A) *[Repealed]*
- (2) Subject to subsection (3), any jurisdiction or power conferred on the Family Court under or by virtue of any enactment shall be exercised by a Family Court Judge.
- (3) Nothing in this section shall prevent the District Court, or a District Court Judge who is not a Family Court Judge, from exercising any jurisdiction or power that is vested in it or him under or by virtue of any enactment to the extent and in the manner specified in that enactment.

Section 11 heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 11(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 11(1)(c): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 11(1)(e): replaced, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

Section 11(1)(g): replaced, on 1 July 1992, by section 247 of the Child Support Act 1991 (1991 No 142).

Section 11(1)(ga): inserted, on 1 November 1989, by section 449 of the Children, Young Persons, and Their Families Act 1989 (1989 No 24).

Section 11(1)(ga): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 11(1)(gb): inserted, on 1 July 1992, by section 2(1) of the Family Courts Amendment Act 1991 (1991 No 66).

Section 11(1)(gc): inserted, on 1 July 1992, by section 2(1) of the Family Courts Amendment Act 1991 (1991 No 66).

Section 11(1) first paragraph (gd): inserted, on 1 November 2007, by section 41 of the Wills Act 2007 (2007 No 36).

Section 11(1) second paragraph (gd): inserted, on 20 September 2007, by section 4 of the Family Courts Amendment Act 2007 (2007 No 56).

Section 11(1A): repealed, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

Section 11(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 11(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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 the 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.

Section 11A: inserted, on 18 May 2009, by section 7 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 11A(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

11B Publication of reports of proceedings

- (1) Any person may publish a report of proceedings in the 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 the 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 subparagraph (A) or (B) applies;
 - (D) any school that a person who is the subject of proceedings under the Oranga Tamariki 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 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.

Section 11B: inserted, on 18 May 2009, by section 7 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 11B(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 11B(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 11B(4)(a)(i): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 11B(4)(a)(ii)(D): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 11B(6): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

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 Oranga Tamariki 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.

Section 11C: inserted, on 18 May 2009, by section 7 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 11C(2): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

11D Meaning of vulnerable person

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

- (a) a person in respect of whom the 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 the 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 Family Violence Act 2018, 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.

Section 11D: inserted, on 18 May 2009, by section 7 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 11D(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 11D(f): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 11D(h): amended, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

12 Proceedings to be brought and dealt with under Family Court Rules

While any Family Court Rules are in force, all proceedings in the Family Court (and all proceedings in the District Court under section 15 of this Act or section 151 of the Oranga Tamariki Act 1989) must be brought and dealt with under those rules, except to the extent that the Act under which the proceedings are brought provides for them to be brought or dealt with under some other enactment.

Section 12: replaced, on 13 September 2002, by section 4 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 12 heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 12: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 12: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

12A Evidence

- (1) This section applies to a proceeding—
 - (a) under an Act specified in subsection (2); and
 - (b) in a court described in subsection (3).
- (2) The Acts referred to in subsection (1)(a) are as follows:
 - (a) Adoption Act 1955:
 - (b) Care of Children Act 2004:
 - (c) Child Support Act 1991:
 - (d) Oranga Tamariki Act 1989:
 - (e) *[Repealed]*
 - (f) Family Proceedings Act 1980:
 - (fa) Family Violence Act 2018:
 - (g) Property (Relationships) Act 1976:
 - (h) Protection of Personal and Property Rights Act 1988:
 - (i) Civil Union Act 2004:
 - (j) Marriage Act 1955.
- (3) The courts referred to in subsection (1)(b) are as follows:
 - (a) the Family Court:
 - (b) the District Court having concurrent jurisdiction with the Family Court:
 - (c) the District Court acting under section 15:
 - (d) the District Court hearing a proceeding under section 151 of the Oranga Tamariki Act 1989:
 - (da) the District Court hearing a proceeding under Part 3 (Police safety orders) of the Family Violence Act 2018:
 - (e) any other court hearing a proceeding that is—
 - (i) under an Act specified in subsection (2); and
 - (ii) not a criminal proceeding; and
 - (iii) one in which the court receives evidence or further evidence.
- (4) The effect of section 5(3) of the Evidence Act 2006 is that that Act applies to the proceeding. However, the court hearing the proceeding may receive any evidence, whether or not admissible under the Evidence Act 2006, that the court considers may assist it to determine the proceeding.

Section 12A: inserted, on 31 March 2014, by section 5 of the Family Courts Amendment Act 2013 (2013 No 78).

Section 12A(2)(d): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 12A(2)(e): repealed, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 12A(2)(fa): inserted, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 12A(2)(i): inserted, on 14 August 2018, by section 31 of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 12A(2)(j): inserted, on 14 August 2018, by section 31 of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 12A(3): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 12A(3)(d): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 12A(3)(da): inserted, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

13 Court may state case for High Court

The Family Court may, on the application of any party to any proceedings before the court, or of its own motion, state a case for the opinion of the High Court on any question of law arising in any matter before the court.

Section 13: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

14 Transfer of proceedings to High Court

Subject to the Act under which any proceedings are brought, the Family Court may, on the application of any party to the proceedings, or of its own motion, order that the proceedings be transferred to the High Court if it is satisfied that, because of the complexity of the proceedings or of any question in issue in the proceedings, it is expedient that the proceedings be dealt with by the High Court; and in any such case the High Court shall have the same power to adjudicate on the proceedings as the Family Court had.

Section 14: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

15 District Court may exercise certain jurisdiction

Notwithstanding anything in section 11, the District Court may—

- (a) deal with any interlocutory matter relating to any proceedings that are being or are to be heard by the Family Court;
- (b) hear and determine any *ex parte* applications relating to any such proceedings;
- (c) by the consent of all the parties to the proceedings, make any order or exercise any power—
 - (i) that, by virtue of any enactment or rule of law, may be made or exercised by the consent of all the parties; and
 - (ii) that could have been made or exercised by the Family Court.

Section 15 heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 15: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 15(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 15(c)(ii): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

15A Application of Contempt of Court Act 2019

- (1) Subparts 2 and 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Family Court.
- (2) Those provisions apply to proceedings of the Family Court as if—
 - (a) references to a court include the Family Court; and
 - (b) references to a judicial officer or to a Judge include Judges of the Family Court.

Section 15A: inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

16 Application of District Court Act 2016

- (1) Subject to subsections (2) to (4), the District Court Act 2016 applies, with any necessary modifications, to the Family Court and Family Court Judges in the same manner and to the same extent as it applies to the District Court and District Court Judges.
- (2) Where any of the provisions of this Act conflict with any of the provisions of the District Court Act 2016, the provisions of this Act prevail.
- (3) Nothing in sections 24 and 72 of the District Court Act 2016 applies in respect of Family Court Judges or the business of the Family Court.
- (4) Nothing in sections 125 to 130 of the District Court Act 2016 applies to the Family Court, Family Court Judges, or the business of the Family Court, except to the extent that an enactment other than that Act provides.

Section 16: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

16A Family Court Rules

- (1) The Governor-General may from time to time, by Order in Council, make rules regulating the practice and procedure of the Family Court in proceedings that the Family Court has jurisdiction to hear and determine.
- (2) Rules made under subsection (1) may—
 - (a) apply (with or without modification) specified District Court rules to proceedings in the Family Court, or proceedings of a particular kind or description in the Family Court:
 - (b) *[Repealed]*

- (c) prescribe the form and contents of documents:
 - (d) prescribe any forms that are necessary for the purposes of this Act or any specified Act, or authorise any specified person or persons to prescribe or approve forms, and require the use of such forms:
 - (e) prescribe 1 or more methods for serving documents:
 - (f) prescribe 1 or more methods for giving notice:
 - (g) provide for the transfer of proceedings between the Family Court and any other court:
 - (h) provide for the keeping, searching, and transfer of records:
 - (i) provide for any other matters in respect of which rules regulating the practice or procedure of the Family Court are contemplated or specifically authorised by this Act or a specified Act.
- (3) Subsection (2) does not limit the powers conferred by subsection (1).
- (4) For the purposes of subsection (2)(i), each of the following Acts is a specified Act:
- (a) the Adoption Act 1955:
 - (b) the Births, Deaths, Marriages, and Relationships Registration Act 1995:
 - (c) the Child Support Act 1991:
 - (d) the Oranga Tamariki Act 1989:
 - (da) the Civil Union Act 2004:
 - (e) the Domestic Actions Act 1975:
 - (f) *[Repealed]*
 - (g) the Family Proceedings Act 1980:
 - (h) the Family Protection Act 1955:
 - (ha) the Family Violence Act 2018:
 - (i) the Care of Children Act 2004:
 - (j) the Law Reform (Testamentary Promises) Act 1949:
 - (k) the Marriage Act 1955:
 - (l) the Property (Relationships) Act 1976:
 - (m) the Protection of Personal and Property Rights Act 1988.
- (5) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):
- (a) rules under this section:
 - (b) rules of practice and procedure for the Family Court under any other enactment.

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 16A: inserted, on 13 September 2002, by section 5 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 16A heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16A(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16A(2)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16A(2)(b): repealed, on 18 May 2009, by section 8 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 16A(2)(g): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16A(2)(i): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16A(4)(b): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 16A(4)(d): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 16A(4)(da): inserted, on 26 April 2005, by section 46 of the Civil Union Act 2004 (2004 No 102).

Section 16A(4)(f): repealed, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 16A(4)(ha): inserted, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 16A(4)(i): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 16A(4)(l): amended, on 13 September 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

Section 16A(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

16B Regulations relating to court fees

- (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 the Family Court:
 - (b) in order to promote access to justice, empowering Registrars or Deputy Registrars of the Family Court 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 1 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 the Family Court 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) *[Repealed]*
- (2) No fee is payable for an application for the exercise of a power specified in subsection (1)(b) or (d).
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 16B: inserted, on 18 May 2009, by section 9 of the Family Courts Amendment Act 2008 (2008 No 78).

Section 16B heading: amended, on 31 March 2014, by section 6(1) of the Family Courts Amendment Act 2013 (2013 No 78).

Section 16B(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16B(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16B(1)(d): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 16B(1)(g): repealed, on 31 March 2014, by section 6(2) of the Family Courts Amendment Act 2013 (2013 No 78).

Section 16B(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

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.

Section 16C: inserted, on 18 May 2009, by section 9 of the Family Courts Amendment Act 2008 (2008 No 78).

16D Regulations relating to payments to professionals

Fees and expenses for lawyers for child and lawyers to assist court

- (1) In subsections (2) to (5), **lawyer** means either of the following:
 - (a) a lawyer appointed under any of the following provisions to represent a child or young person:
 - (i) section 7 of the Care of Children Act 2004;
 - (ii) section 226 of the Child Support Act 1991;
 - (iii) section 159 of the Oranga Tamariki Act 1989;
 - (iv) *[Repealed]*

- (v) section 162 of the Family Proceedings Act 1980:
 - (va) section 166(1)(b) of the Family Violence Act 2018:
 - (vb) section 166(1)(c) of the Family Violence Act 2018:
 - (vi) section 37A of the Property (Relationships) Act 1976:
 - (vii) section 20(1) of the Civil Union Act 2004:
 - (viii) section 19(1) of the Marriage Act 1955; or
- (b) a lawyer appointed under any of the following provisions to assist the court:
- (i) section 130 of the Care of Children Act 2004:
 - (ii) section 226A of the Child Support Act 1991:
 - (iii) section 160 of the Oranga Tamariki Act 1989:
 - (iv) *[Repealed]*
 - (v) section 162A of the Family Proceedings Act 1980:
 - (va) section 166(1)(a) of the Family Violence Act 2018:
 - (vi) section 65A of the Protection of Personal and Property Rights Act 1988:
 - (vii) section 20(2) of the Civil Union Act 2004:
 - (viii) section 19(2) of the Marriage Act 1955.
- (2) The Governor-General may, from time to time, by Order in Council, make regulations for determining—
- (a) the fees payable to a lawyer in respect of the lawyer's appointment:
 - (b) the expenses payable to a lawyer in respect of the lawyer's appointment.
- (3) Regulations under subsection (2)(a) may—
- (a) prescribe the maximum hourly rate or rates for the fee payable, and different rates may be prescribed depending on—
 - (i) the complexity of the proceedings:
 - (ii) the number of proceedings in which the lawyer is engaged during a specified period:
 - (b) prescribe the maximum number of hours for which the fee is payable, and different numbers of hours may be prescribed depending on—
 - (i) the complexity of the proceedings:
 - (ii) the number of proceedings in which the lawyer is engaged during a specified period:
 - (c) provide that any rate prescribed under paragraph (a), or any number of hours prescribed under paragraph (b), or both, may be increased by the court in a particular proceeding if the court is satisfied that the increase is justified because of exceptional circumstances.

- (4) If no regulations are made under subsection (2)(a) in respect of any lawyer, the fees payable to that lawyer are to be determined by the Registrar of the court.
- (5) Regulations under subsection (2)(b) may prescribe—
 - (a) the types of expenses for which a lawyer may claim reimbursement:
 - (b) the rate of reimbursement of those expenses:
 - (c) the circumstances in which expenses may be reimbursed.

Fees and expenses for report writers

- (6) In subsections (7) to (10), **report writer** means any of the following:
 - (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:
 - (b) a person who prepares a medical report when requested to do so under section 133(2) of the Care of Children Act 2004:
 - (c) a person who prepares a psychiatric report when requested to do so under section 133(2) of the Care of Children Act 2004:
 - (d) a person who prepares a psychological report when requested to do so under section 133(5) of the Care of Children Act 2004.
- (7) The Governor-General may, from time to time, by Order in Council, make regulations for determining—
 - (a) the fees payable to a report writer for doing either or both of the following:
 - (i) preparing a report:
 - (ii) attending as a witness in the proceedings for which the report writer prepared the report:
 - (b) the expenses payable to a report writer for doing either or both of the following:
 - (i) preparing a report:
 - (ii) attending as a witness in the proceedings for which the report writer prepared the report.
- (8) Regulations under subsection (7)(a) may—
 - (a) prescribe the maximum hourly rate or rates for the fee payable, and different rates may be prescribed depending on—
 - (i) the type of report:
 - (ii) the complexity of the proceedings:
 - (iii) the number of proceedings in which the report-writer is engaged during a specified period:

- (b) prescribe the maximum number of hours for which the fee is payable, and different numbers of hours may be prescribed depending on—
- (i) the type of report:
 - (ii) the complexity of the proceedings:
 - (iii) the number of proceedings in which the report-writer is engaged during a specified period:
- (c) provide that any rate prescribed under paragraph (a), or any number of hours prescribed under paragraph (b), or both, may be increased by the court in a particular proceeding if the court is satisfied that the increase is justified because of exceptional circumstances.
- (9) If no regulations are made under subsection (7)(a) in respect of any report writer, the fees payable to that report writer are to be determined by the Registrar of the court.
- (10) Regulations under subsection (7)(b) may prescribe the following:
- (a) the types of expenses for which a report writer may claim reimbursement:
 - (b) the rate of reimbursement of those expenses:
 - (c) the circumstances in which expenses may be reimbursed.
- (11) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 16D: inserted, on 31 March 2014, by section 7 of the Family Courts Amendment Act 2013 (2013 No 78).

Section 16D(1)(a)(iii): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 16D(1)(a)(iv): repealed, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 16D(1)(a)(va): inserted, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 16D(1)(a)(vb): inserted, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 16D(1)(a)(vi): amended, on 14 August 2018, by section 32(1) of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 16D(1)(a)(vii): inserted, on 14 August 2018, by section 32(2) of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 16D(1)(a)(viii): inserted, on 14 August 2018, by section 32(2) of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 16D(1)(b)(iii): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 16D(1)(b)(iv): repealed, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 16D(1)(b)(va): inserted, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 16D(1)(b)(vii): inserted, on 14 August 2018, by section 32(3) of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 16D(1)(b)(viii): inserted, on 14 August 2018, by section 32(3) of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 16D(6) heading: replaced, on 14 August 2018, by section 32(4) of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 16D(6)(a): replaced, on 14 August 2018, by section 32(5) of the Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22).

Section 16D(11): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

17 Certain enactments amended

(1) The enactments specified in the Schedule are hereby consequentially amended in the manner specified in that schedule.

(2) *[Repealed]*

Section 17(2): repealed, on 31 March 2014, by section 8 of the Family Courts Amendment Act 2013 (2013 No 78).

17A Repeals

The following provisions are repealed:

- (a) section 24 of the Adoption Act 1955:
- (b) section 128 of the Care of Children Act 2004:
- (c) section 228 of the Child Support Act 1991:
- (d) section 195 of the Children, Young Persons, and Their Families Act 1989:
- (e) section 84 of the Domestic Violence Act 1995:
- (f) sections 4 and 5 of the Family Courts Amendment Act 2008:
- (g) section 164 of the Family Proceedings Act 1980:
- (h) section 36 of the Property (Relationships) Act 1976:
- (i) section 77 of the Protection of Personal and Property Rights Act 1988.

Section 17A: inserted, on 31 March 2014, by section 9 of the Family Courts Amendment Act 2013 (2013 No 78).

18 Transitional and saving provisions

(1) Subject to subsections (2) and (3), all matters and proceedings commenced under any enactment before the commencement of section 11 and required by

virtue of that section to be heard and determined in a Family Court, shall be continued in a Family Court.

- (2) All matters and proceedings commenced in the High Court under the Matrimonial Proceedings Act 1963 or the Guardianship Act 1968 before the commencement of section 11 and required by virtue of that section to be heard and determined in a Family Court, shall, notwithstanding that section, be continued in the High Court.
- (3) Where the hearing of any matter or proceeding referred to in subsection (1) has commenced in a District Court before the commencement of this Act, the matter or proceeding shall be continued in a District Court as if this Act had not been passed.

Schedule
Enactments amended

s 17

Acts Interpretation Act 1924 (1924 No 11) (RS Vol 1, p 7)

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

Adoption Act 1955 (1955 No 93) (RS Vol 1, p 35)

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

District Courts Act 1947 (1947 No 16) (RS Vol 8, p 647)

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

Domestic Actions Act 1975 (1975 No 53)

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

Marriage Act 1955 (1955 No 92) (RS Vol 9, p 365)

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

Matrimonial Property Act 1976 (1976 No 166)

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

Social Security Act 1964 (1964 No 136)

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

Notes

1 *General*

This is a consolidation of the Family Court Act 1980 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Contempt of Court Act 2019 (2019 No 44): section 29

Family Violence Act 2018 (2018 No 46): section 259(1)

Minors (Court Consent to Relationships) Legislation Act 2018 (2018 No 22): sections 31, 32

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149

Family Courts Amendment Act 2016 (2016 No 63)

District Court Act 2016 (2016 No 49): sections 249–252, 261

Family Courts Amendment Act 2013 (2013 No 78)

Criminal Procedure Act 2011 (2011 No 81): section 413

Family Courts Amendment Act 2008 (2008 No 78)

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Family Courts Amendment Act 2007 (2007 No 56)

Wills Act 2007 (2007 No 36): section 41

Civil Union Act 2004 (2004 No 102): section 46

Care of Children Act 2004 (2004 No 90): section 151

Family Courts Amendment Act 2004 (2004 No 44)

State Sector Amendment Act 2003 (2003 No 41): section 14

Property (Relationships) Amendment Act 2001 (2001 No 5): section 64(2)

Family Courts Amendment Act 2000 (2000 No 65)

Child Support Act 1991 (1991 No 142): section 247

Family Courts Amendment Act 1991 (1991 No 66): section 2(1)

Children, Young Persons, and Their Families Act 1989 (1989 No 24): section 449