

THE DEPARTMENT OF INTERNAL AFFAIRS



Te Tari Taiwhenua

Civil Union

A GUIDE FOR COUPLES PREPARING TO ENTER INTO A CIVIL UNION IN NEW ZEALAND

What is a civil union?

A civil union is the formalisation of a relationship between two people in accordance with the provisions of the Civil Union Act 2004 (in force from 26 April 2005).

The Civil Union Act and the Births, Deaths, and Marriages Registration Act 1995 set out the criteria, rules and processes for a couple to have their civil union solemnised and officially registered in New Zealand.

Regulations made under those Acts prescribe applicable forms and fees.

All forms are available from Births, Deaths and Marriages offices and agencies, and through our website: www.bdm.govt.nz.

Copies of the Acts and associated regulations may be available at your local library, can be purchased from Bennett's Government Bookshops, and can be accessed on the Internet at www.legislation.govt.nz.

NOTE

A civil union may be entered into by same-sex couples or by couples of different sexes.

ARE THERE DIFFERENT KINDS OF CIVIL UNION CEREMONY?

There are two types of civil union ceremony:

- A ceremony solemnised by a Registrar of Civil Unions in a Registry Office; and
- A ceremony solemnised by an authorised Civil Union Celebrant at a place other than a Registry Office.

Registry Office ceremonies take place during normal office hours, but you can have a celebrant perform your civil union ceremony at any time, on any day of the week.

WHAT KINDS OF CEREMONIES DO CIVIL UNION CELEBRANTS OFFER?

Individual celebrants may offer a variety of styles of civil union ceremony, and are usually willing to assist couples who wish to design and write their own.

WHAT'S THE PROCESS FOR GETTING A CIVIL UNION LICENCE?

- ✓ When a couple intend to enter into a civil union, they are required to complete the appropriate type of 'Notice of Intended Civil Union' form, which includes a statutory declaration that both parties are free to be joined in civil union and that all the details supplied on the form are correct.
- ✓ One of the parties must appear in person before a Registrar of Civil Unions to sign the statutory declaration.
- ✓ The required fee must be paid.
- ✓ The Registrar will (no sooner than three days after receiving the civil union notice) issue your Civil Union Licence, together with two copies of a document known as a 'Copy of Particulars of Civil Union'.
- ✓ You will need to deliver these three documents to your Civil Union Celebrant **before** the ceremony.

'Notice of Intended Civil Union' forms are available from Births, Deaths and Marriages offices and agencies, and through our website: www.bdm.govt.nz.

NOTE

If you ordinarily live overseas and want to have a civil union ceremony in New Zealand, refer to page 9 for further details.

NOTE

On payment of the required fee, a Civil Union Certificate may be obtained from BDM.

WHAT HAPPENS AT A CIVIL UNION CEREMONY?

The Civil Union Act 2004 does not prescribe any set form for the ceremony, but the following elements are essential:

- ✓ Your civil union must be solemnised at one of the places stated on the Civil Union Licence, and before the licence expires.
- ✓ The civil union must be solemnised in the presence of either a Civil Union Celebrant or a Registrar of Civil Unions.
- ✓ The ceremony must be performed in the presence of at least two other witnesses.
- ✓ Each party must make a clear statement to the other that names both parties and acknowledges that they are freely joining in a civil union with each other.
- ✓ The couple, the celebrant and the witnesses must all sign both copies of the Copy of Particulars of Civil Union.

WHO CAN BE A WITNESS AT A CIVIL UNION CEREMONY?

Witnesses must be able to understand what occurs at the ceremony (*ie* they should be of sound mind, and should not be intoxicated).

Children can be witnesses, but they must be old enough to understand the nature of the ceremony, and must be able to demonstrate that understanding in court if later required to do so.

The Civil Union Act 2004 does not stipulate a minimum age for witnesses.

WHAT HAPPENS AFTER THE CEREMONY?

- ✓ The Civil Union Celebrant sends one Copy of Particulars of Civil Union to the Registrar of Civil Unions so that the civil union can be registered with Births, Deaths and Marriages (BDM).
- ✓ The celebrant gives the other Copy of Particulars of Civil Union to the couple.

WHEN DOES A PERSON NEED CONSENT FOR A CIVIL UNION?

The following conditions apply:

- Both parties to a civil union must be at least 16 years of age.
- If you are 16 or 17 years of age, you will need consent:
 - You must obtain consent from **each** of your guardians (usually your parents) – unless they cannot be located or are, as a result of incapacity, unable to give consent;
 - If none of your guardians are able to give consent, you must obtain consent from a relative acting in place of a guardian, or from a Family Court Judge;
 - If your parents or guardians refuse consent, you can apply to a Family Court Judge for consent to enter into a civil union.

Consent forms are available from Births, Deaths and Marriages offices and agencies, and through our website: www.bdm.govt.nz.

WHAT ARE THE VARIOUS KINDS OF NOTICE OF INTENDED CIVIL UNION?

There are three types of civil union notice, each designed to deal with particular circumstances:

- ‘Notice of Intended Civil Union’ (for general use);
- ‘Notice of Intended Civil Union, where both parties are ordinarily resident outside New Zealand’; and
- ‘Notice of Intended Civil Union, change of relationship from marriage’.

The ‘Notice of Intended Civil Union, change of relationship from marriage’ form is used when a couple who are married wish to change their relationship to a civil union.

CAN A COUPLE CHANGE THEIR MARRIAGE TO A CIVIL UNION ... OR THEIR CIVIL UNION TO A MARRIAGE?

A married couple who wish to continue in a relationship with each other may change the form of that relationship to a civil union without being required to formally dissolve their marriage. For them, the process begins with a 'Notice of Intended Civil Union, change of relationship from marriage' form. They will be required to provide evidence of their marriage.

Similarly, where the two parties to a civil union are otherwise eligible to marry, they may change the form of their relationship to a marriage without having to formally dissolve their civil union. In this case they would begin by completing a 'Notice of Intended Marriage, change of relationship from civil union' form. They will be required to provide evidence of their civil union.

WHAT'S THE PROCESS IF A PERSON HAS PREVIOUSLY BEEN MARRIED OR IN A CIVIL UNION WITH A DIFFERENT PARTNER?

When completing the Notice of Intended Civil Union you will be asked to provide evidence of the dissolution of your previous marriage or civil union relationship (eg Divorce/Dissolution Order).

If your previous partner or spouse has died you will be required to give the date of their death, but you will not need to produce evidence of the death if the death has been registered in New Zealand.

Any person who believes that there are legal grounds why a Civil Union Licence should not be issued for a couple's civil union may lodge a 'Notice of Objection' with any Registrar of Civil Unions.

NOTE

Same-sex couples are not permitted to marry each other in New Zealand.

HOW DOES A NOTICE OF OBJECTION WORK?

A Notice of Objection is a formal notice lodged with a Registrar giving the reasons why a Civil Union Licence should not be issued.

When a Registrar receives a Notice of Intended Civil Union and is aware that a relevant objection has been lodged, the Registrar will submit the objection to the Family Court, and the court will determine whether the objection should be discharged (cancelled).

An objection to a civil union would also be treated as a caveat to a marriage, and vice versa.

Notices of Objection expire after one year unless discharged or withdrawn.

If the Family Court considers that the grounds on which a particular Notice of Objection was lodged were unreasonable and were intended to annoy or cause distress, the person who lodged the Notice of Objection will be liable to pay compensation to the couple.

HOW DO WE KNOW THE CIVIL UNION CELEBRANT IS APPROVED?

Only those persons licensed by the Registrar-General as Civil Union Celebrants and whose names appear in the List of Civil Union Celebrants in the ***New Zealand Gazette*** have authority to solemnise civil unions in New Zealand.

Civil unions can also be conducted in Registry Offices by Registrars of Civil Unions, or according to the practices of certain organisations that are exempt from the requirement to have a Civil Union Celebrant present.

The *Gazette* is published weekly, and names are added to or removed from the list as required throughout the year. (The first List of Civil Union Celebrants was published in April 2005, and subsequent lists will be published prior to 31 January in each year.)

Copies of the *Gazette* are held at Births, Deaths and Marriages offices and agencies, and at some public libraries.

The *Gazette* can also be accessed online at www.gazette.govt.nz.

NOTE

For further information on the role of the Civil Union Celebrant, refer to our brochure, **Civil Union Celebrant : A guide to the role of Civil Union Celebrant in New Zealand.**

NOTE

You will be given or sent a 'Notification to Registrar of Electors of Intended Marriage/Civil Union' form, for updating your details on the electoral roll.

WHERE CAN WE FIND A CURRENT LISTING OF APPROVED CIVIL UNION CELEBRANTS?

A current List of Civil Union Celebrants in your area will be available from your nearest Registrar of Civil Unions or by phoning 0800 22 52 52.

The Registrar-General's office does not send Civil Union Celebrants' names to be listed in the Yellow Pages or elsewhere.

CAN PARTNERS CHANGE THEIR NAMES ONCE THEIR CIVIL UNION IS SOLEMNISED?

- You can retain your current surname;
- You may take your partner's surname;
- You may both adopt a combination of your surnames (eg as a hyphenated surname).

You can use your Copy of Particulars of Civil Union or Civil Union Certificates as evidence of the fact that you have adopted the new surname.

HOW MUCH DOES IT ALL COST?

Fees will apply for:

- Applying for a Civil Union Licence;
- Lodging a Notice of Objection;
- Having a civil union ceremony in a Registry Office; and
- Purchasing a Civil Union Certificate.

Civil Union Celebrants may charge a fee for solemnising a civil union. BDM does not set the level of such a fee.

WHAT IF A COUPLE LIVE OVERSEAS AND WANT TO ENTER INTO A CIVIL UNION IN NEW ZEALAND?

- ✓ You will need to complete a 'Notice of Intended Civil Union, where both parties are ordinarily resident outside of New Zealand'.
- ✓ Send the civil union notice (with the required fee) to the Registry Office closest to the place where you want to have the civil union, ensuring that it reaches the Registrar at least a week before you intend to have the ceremony.
- ✓ Collect the Civil Union Licence and the two copies of the Copy of Particulars of Civil Union.
- ✓ If a Registrar is to solemnise the civil union, the statutory declaration can be signed in front of the Registrar immediately prior to the ceremony; otherwise you must sign the statutory declaration when you pick up the licence from the Registrar.

Alternatively, the statutory declaration can be signed, while you are in your home country, in front of a Commonwealth representative (*ie* an authorised diplomatic or consular officer of a Commonwealth country.)

If you wish to change the form of your current relationship from marriage to civil union, and you currently live overseas, you may complete the form – without signing the statutory declaration – and send it to the Registry Office nearest to the place where your civil union is to be solemnised. On arrival in New Zealand, you will need to sign the statutory declaration in the presence a Registrar of Civil Unions before the licence is issued.

WILL NEW ZEALAND CIVIL UNIONS BE RECOGNISED IN OTHER COUNTRIES?

This will depend on the law in any particular country. We recommend that you discuss this with your lawyer.

WHAT IF A COUPLE WANT TO ENTER INTO A CIVIL UNION OVERSEAS?

- You will need to find out what is required by the laws of the country in which you intend to have the ceremony; and
- You will need to make the arrangements yourself.

If the country where you are entering into a civil union requires it, BDM can issue a 'Certificate of No Impediment' showing that a search of the registers has found no lawful impediment to the civil union. There is a fee for this service.

WILL OVERSEAS CIVIL UNIONS BE RECOGNISED IN NEW ZEALAND?

Your relationship may be recognised as a civil union in New Zealand if it is of a type listed as such in our regulations. For further information, contact your local Registrar of Civil Unions or Call Free 0800 22 52 52 (within New Zealand only).

CAN AN OVERSEAS CIVIL UNION BE REGISTERED IN NEW ZEALAND?

There is no provision in the Civil Union Act 2004 to allow a civil union solemnised overseas to be registered in New Zealand. If it is legally recognised in New Zealand, the certificate issued in the other country can be used as evidence of that relationship.

WHAT HAPPENS TO THE INFORMATION RECORDED ON CIVIL UNION FORMS?

- BDM holds and uses the information you give us in accordance with the following legislation:
 - Civil Union Act 2004;
 - Marriage Act 1955;
 - Births, Deaths, and Marriages Registration Act 1995; and
 - Privacy Act 1993.
- You have the right to access and, where appropriate, correct the information, in accordance with the relevant provisions of these Acts.
- Under information-matching programmes approved by the Privacy Commissioner, other organisations may compare information with the Births, Deaths and Marriages Office. For a current list of these programmes, visit our website: www.bdm.govt.nz.

PROHIBITED DEGREES OF CIVIL UNION

In the following list, the terms 'spouse' and 'civil union partner' include respectively a 'former spouse' and a 'former civil union partner', whether alive or deceased, and whether the marriage or civil union was terminated by death, dissolution or otherwise.

The prohibited degrees of civil union apply whether the relationships described are by the whole blood or by the half blood.

The relationships in the list also apply to relationships existing before or after a person is adopted.

Person A and person B are within the prohibited degrees of civil union if person A is person B's –

- grandparent
- parent
- child
- grandchild
- sibling
- parent's sibling
- sibling's child
- grandparent's spouse or civil union partner
- parent's spouse or civil union partner
- spouse's or civil union partner's parent
- spouse's or civil union partner's grandparent
- spouse's or civil union partner's child
- child's spouse or civil union partner
- grandchild's spouse or civil union partner
- spouse's or civil union partner's grandchild

OFFENCES

The Civil Union Act sets out a number of offences relating to the solemnisation and registration of civil unions. These include:

- Solemnising a civil union when not authorised as a Civil Union Celebrant, or contrary to the requirements of the Act;
- Making, or causing to be made, a false declaration for the purpose of the Act;
- Making, or causing to be made, for the purpose of registration, a false statement in respect of any information that is required to be registered; and
- Lodging a false Notice of Objection.

Anyone convicted for any of these offences is liable to imprisonment and/or a fine.

Civil Union checklist

- ✓ Ensure you are legally permitted to enter into a civil union.
- ✓ Choose an approved Civil Union Celebrant.
- ✓ Choose a place to hold the civil union, and, if using an outside venue, an alternative location in case of unsuitable weather.
- ✓ Complete the applicable Notice of Intended Civil Union:
 - Return the form to the Registrar of Civil Unions at least a week before you intend to have the civil union ceremony (especially important if you live overseas and want to have a civil union in New Zealand).
 - If you have previously been married or in a civil union, you will need proof of the dissolution of that relationship.

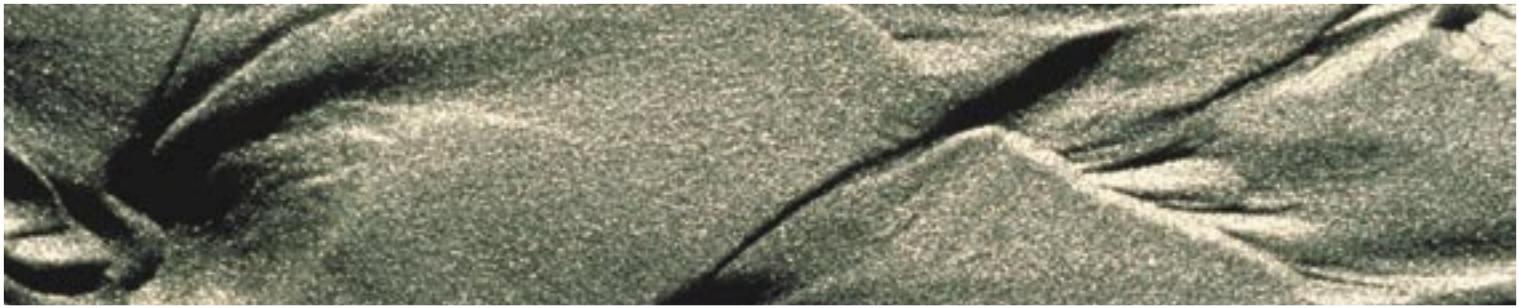
- If changing the form of your relationship, you will need evidence of your current marriage relationship.
- ✓ Sign the statutory declaration:
 - One of the parties to the civil union must appear in person before a Registrar of Civil Unions to sign a statutory declaration that both parties are free to have a civil union and that all the details supplied are correct.
- ✓ Pay the prescribed fee.
- ✓ Collect the Civil Union Licence and the two copies of the Copy of Particulars of Civil Union.
- ✓ Deliver the Civil Union Licence and both copies of the Copy of Particulars of Civil Union to your Civil Union Celebrant before the ceremony.
- ✓ Send notification of the intended civil union to the Electoral Enrolment Centre.

CHANGE IN CIRCUMSTANCE

If you are receiving financial assistance from either **Work and Income** or **Studylink**, you will need to notify them promptly of your change in circumstance.

Call **Work and Income** on 0800 559 009, or **Studylink** on 0800 889 900.





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Te Tari Taiwhenua

**THIS BROCHURE ANSWERS THE QUESTIONS MOST LIKELY
TO ARISE AS COUPLES PLAN THEIR CIVIL UNION CEREMONY**

Please contact us if you require further assistance:

- Talk to your nearest Registrar of Civil Unions
- Visit our website: www.bdm.govt.nz
- E-mail the Births, Deaths and Marriages Office:
bdm.nz@dia.govt.nz
- Freephone 0800 22 52 52
- Write to:
Births, Deaths and Marriages
PO Box 10-526
Wellington, New Zealand