

## **Property (Relationships) Amendment Bill**

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Relationships (Statutory References) Bill, as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- The Relationships (Statutory References) Bill, comprising subpart 20 of Part 1, Part 2, and Schedules 13, 13A, 14, and 15
- The Administration Amendment Bill (No 2), comprising subpart 1 of Part 1
- The Care of Children Amendment Bill, comprising subpart 1A of Part 1 and Schedule 1AA
- The Child Support Amendment Bill (No 3), comprising subpart 2 of Part 1 and Schedule 1
- The Deaths by Accidents Compensation Amendment Bill, comprising subpart 3 of Part 1
- The Estate and Gift Duties Amendment Bill, comprising subpart 4 of Part 1 and Schedule 2
- The Goods and Services Tax Amendment Bill, comprising subpart 5 of Part 1 and Schedule 3
- The Government Superannuation Fund Amendment Bill (No 4), comprising subpart 6 of Part 1 and Schedule 3A
- The Income Tax Amendment Bill, comprising subpart 7 of Part 1 and Schedule 4
- The Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 4), comprising subpart 7A of Part 1 and Schedule 4A

- The Interpretation Amendment Bill, comprising subpart 8 of Part 1
  - The Life Insurance Amendment Bill (No 2), comprising subpart 9 of Part 1
  - The Marriage Amendment Bill, comprising subpart 10 of Part 1
  - The Minors' Contracts Amendment Bill, comprising subpart 11 of Part 1
  - The New Zealand Superannuation Amendment Bill (No 2), comprising subpart 12 of Part 1 and Schedules 5 and 6
  - The Parental Leave and Employment Protection Amendment Bill (No 2), comprising subpart 12A of Part 1 and Schedule 6A
  - The Property (Relationships) Amendment Bill, comprising subpart 13 of Part 1 and Schedule 7
  - The Real Estate Agents Amendment Bill, comprising subpart 14 of Part 1
  - The Social Security Amendment Bill, comprising subpart 15 of Part 1 and Schedules 8, 9, and 9A
  - The Tax Administration Amendment Bill, comprising subpart 16 of Part 1 and Schedule 10
  - The Trustee Amendment Bill, comprising subpart 17 of Part 1
  - The War Pensions Amendment Bill (No 3), comprising subpart 8 of Part 1 and Schedules 11 and 12
  - The Wills Amendment Bill, comprising subpart 19 of Part 1.
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## Key to symbols used in reprinted bill

### As reported from a select committee

#### Struck out (majority)

Subject to this Act,

Text struck out by a majority

#### New (majority)

Subject to this Act,

Text inserted by a majority

<Subject to this Act,>

Words struck out by a majority

<Subject to this Act,>

Words inserted by a majority

### As reported from the committee of the whole House

#### New

Subject to this Act,

Text inserted

((Subject to this Act,))

Words struck out

Subject to this Act,

Words inserted

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*Hon David Benson-Pope*

# Property (Relationships) Amendment Bill

Government Bill

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59	Amendments to principal Act in Schedule 7	<b>Schedule 7</b> <b>Amendments to Property (Relationships) Act 1976</b> . . . . .

**The Parliament of New Zealand enacts as follows:**

### **1 Title**

- (1) This Act is the Property (Relationships) Amendment Act **2005**.
- (2) In this Act, the Property (Relationships) Act 1976 is called “the principal Act”.

### **2 Commencement**

This Act comes into force on **26 April 2005**.

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### **59 Amendments to principal Act in Schedule 7**

- (1) The provisions of the principal Act specified in **Part 1** of **Schedule 7** are amended by *<inserting, after the word “spouses” wherever it appears, the words “, civil union partners,”>* <omitting the words “de facto partners” wherever they appear, and substituting in each case the word “partners”>. 10
- (2) The provisions of the principal Act specified in **Part 2** of **Schedule 7** are amended by *<inserting, after the word “spouse” wherever it appears, the words “, civil union partner,”>* <omitting the words “de facto partner” wherever they appear, and substituting in each case the word “partner”>. 15
- (3) The provisions of the principal Act specified in **Part 3** of **Schedule 7** are amended by inserting, after the word “marriage” wherever it appears, the words “, civil union,”. 20

- (4) The provisions of the principal Act specified in **Part 4** of **Schedule 7** are amended in the manner set out in that Part.

. . . . .  
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## Schedule 7

### Amendments to Property (Relationships) Act 1976

s 59

#### Part 1

- <Insertion of “civil union partners” after “spouses”><Omit  
 “de facto partners” and substitute “partners”> 5
- Sections 1F(1)(a), and (2), <1G(b) and (c),> 1H, 1I, 1J, 1M(c), and 1N(c). The definitions of **family chattels** and **family home** in section 2.
- Sections 2F(2), 2H(2)<(a), (b),> and (3), 4(1) and (4), 7(2), and 7A(1) and (2)(a), and the heading to section 7A. 10
- Sections 8, 9(5), and 10(3).
- Section 10A and the heading to section 10A. Sections 10B(1)(a) and (2), 10C, and 10D(1).
- Sections 11(1), 11B(1), 15A(1), and 16(2)(c) and (3). The heading to section 18 and the heading to section 18A. Sections 18B(1) and (3) and 18C(3). 15
- The definition of **relationship debt** in section 20(1). Sections 20B(2)(a) and (3)(a)(ii), 20C(2)(b)(i), and 20D.
- Section 21(2) and the heading to section 21. The heading to section 21A. Sections 21B(1)(a) and (2), 21D(1)(c), and 21N(2) and (3). 20
- Sections 23(1)(b) and (3), 24(4), 25(1)(a)(ii) and (6), 27(5), 28(7), 28A(3), 29, 33(3), 37(2), 39(6), 44B(1), 44C(1), 44D(1), 44E(1), 44F(1), and 47(1) and (3).
- Section 59(3)(b)<(i)>. The heading above section 60. Sections 60(1)(a) and (7), 61(1), 79(1), 80(2), 86<(1) and (2)>, 87(1)(a), 91(1), and 94(1)(a). 25

#### Part 2

- <Insertion of “civil union partner” after “spouse”><Omit  
 “de facto partner” and substitute “partner”>
- <Sections 1H(b) and 1K.> 30
- ((Section)) Sections 1D(1)(h), 1F(1)(b), and 1H(b).
- Section 1K and the heading to section 1K.
- The definitions of **life insurance policy** and **superannuation scheme entitlement** in section 2.
- Sections 4(1)(b)(ii), 4B(1), 8(1), 9(1), (4), (5), and (6), 9A(2) and (3), and 10(1)(a), (2), and (3). 35
- The heading to section 10B. Sections 10C(c) and 10D(3).
- Sections 11A(1), 11B(2), 12, <13(1),> 15(1) and (2), and 15A(1) and (2)(a), and the heading to section 15A.

Part 2—*continued*

- Section 16<(1), (2), and (3),> and the heading to section 16.  
 Sections 17(1), 17A(1), 18(1), 18A(1) <and (2)>, 18B(2), and 18C(2). Sections 19, 20A(1) and (2), 20B<(1), (2), and (3),> and 20C, and the heading to section 20C. Section 20E(1).  
 Section 21B(1), (2), and (3), and the heading to section 21B. Section 21C(1) and the heading to section 21C. Sections 21D(1)(b) and (c), 21J(5), and 21N(1). 5
- Sections 23(1)(a) and (2), 25(1)(a)(i) and (2), 26(2), 26A(1), 27, 28(1) and (1A), 28C(1) and (2), 29, 30, 31(1), 32, 33(3) and (4), 35(1), 44B(1), 44C(2) and (3)(a), 44D(1)(b), 44E(1), 44F(2), 46, 47(1) and (4), and 53(2A)(ba). 10
- The heading to Part 8. Sections 56 and 57. The heading above section 58. Sections 58, 59, and 60(1), (2) and (6), and the heading to section 60. The heading above section 61. Section 61 and the heading to section 61. Sections 62 and 63<(a)>, and the heading to section 63. Sections 65(1) and (2), 66, 67(1), 68(1), 69(1) and (2), 70, 71, 72(1), 73(1), 74(1), ~~75, 76~~, and 77, and the heading to section 77. Section 78 and the heading to section 78. 15
- The heading above section 79. Sections 79(1), 80(2)(b), and 81(1), and the heading to section 81. Section 82(1) and the heading to section 82. Sections 83, 84, 86, and 87(2) and (3), and the heading to section 87. Sections 88, 90(1) and (4), 91(2) and (3), 92, 93, and 94(1), (2), and (6), and the heading to section 94. Section 95. 20

## Part 3

*(Insertion of)* Insert “, civil union,” after “marriage” 25

- Sections 1G(c) and 1N(c). The definitions of **life insurance policy** and **superannuation scheme entitlement** in section 2.  
 Sections 2H(2)(b), 7A(2)(a), 8(1), 15(1), 15A(1)(a), 16(1)(a) and (2), 18(1)(c), <18A(2)(a),> 18B(1) and (2), 21(1), 21D(1)(b), 51(2), 79(1), 80(2), and 86(2). 30

## Part 4

Other amendments to Property (Relationships) Act 1976

**Section 1C**

- Insert in subsection (1), after the words “married couples”, the words “and civil union couples”. 35
- Insert in subsection (2), after the word “wife”, the words “or the civil union between the civil union partners”.

Part 4—*continued***Section 1C**—continued

Insert in subsection (2)(a), after the word “marriages” in both places where it appears, the words “and civil unions”.

**Section 1G**

Insert, after the word “wife”, the words “or civil union partners”.

**Struck out (majority)**

Insert in paragraph (b), after the word “spouses”, the words “or civil union partners”. 5

Insert in paragraph (c), after the word “spouses”, the words “, or civil union partners,”.

Insert in paragraph (d), after the word “marriage”, the words “, or of the partners to the civil union”. 10

**Section 1K**

Insert, after the word “wife”, the words “, civil union partners,”.

**Section 1M**

Insert in paragraph (a), after the words “married couples”, the words “and civil union couples,”. 15

Insert in paragraph (b), after the words “marriage partnership,”, the words “of civil union partners to the civil union,”.

Insert in paragraph (c), after the words “children of the marriage”, the words “or children of the civil union”.

**Section 1N(b)** 20

Insert, after the words “marriage partnership,”, the words “civil union,”.

**Section 2**

Insert, after the definition of **administration**:

“**child of the civil union**— 25

“(a) means any child of both civil union partners; and

“(b) includes any other child (whether or not a child of either civil union partner) who was a member of the family of the civil union partners—

“(i) at the time when they ceased to live together; or 30

“(ii) at the time immediately before an application under this Act, if at that time they had not ceased to live together; or



Part 4—*continued*Section 2—*continued*

“(iii) at the date of the death of 1 of the civil union partners”.

Insert in paragraph (c) of the definition of **child of the marriage**, after the word “relationship” in both places where it appears, the words “or civil union”.

5

**New (majority)**

Insert, after the definition of **owner**:

“**partner**, in the phrase ‘spouse or partner’ and in related contexts, means a civil union partner or a de facto partner”.

Repeal the definition of **voluntary agreement** and substitute:

“**voluntary agreement** means a written agreement—

10

**Struck out (majority)**

“(a) made between spouses, civil union partners, or de facto partners who are parties to proceedings; and

“(b) providing for 1 spouse, civil union partner, or de facto partner to pay sums of money to the other spouse, civil union partner, or de facto partner for the maintenance of—

15

“(i) the other spouse, civil union partner, or de facto partner:

“(ii) a child of the marriage or child of the civil union partnership or child of the de facto relationship.”

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**New (majority)**

“(a) made between spouses or partners who are parties to proceedings; and

“(b) providing for 1 spouse or partner to pay sums of money to the other spouse or partner for the maintenance of—

“(i) the other spouse or partner:

“(ii) a child of the marriage or child of the civil union or child of the de facto relationship.”

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Part 4—*continued***New section 2AB**

Insert, after section 2A:

**“2AB Meaning of civil union**

“(1) In this Act, **civil union** includes a civil union that—

- “(a) is void; or 5
- “(b) is ended while both civil union partners are alive by a legal process that occurs within New Zealand; or
- “(c) is ended by the death of 1 of the civil union partners, whether within or outside New Zealand.

“(2) For the purposes of this Act, the civil union of 2 civil union partners ends if— 10

- “(a) they cease to live together as civil union partners; or
- “(b) their civil union is dissolved; or
- “(c) 1 of them dies.”

**New section 2BA**

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Insert, after section 2B:

**“2BA Immediately preceding marriage or civil union**

For the purposes of this Act,—

- “(a) if a marriage was immediately preceded by a civil union between the husband and the wife, the civil union must be treated as if it were part of the marriage; and 20
- “(b) if a civil union was immediately preceded by a marriage between the civil union partners, the marriage must be treated as if it were part of the civil union.”

**Section 2D(1)(c)**

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Insert, after the words “married to”, the words “, or in a civil union with,”.

**Section 2E**

Insert, after subsection (1)(a):

- “(ab) in relation to a civil union, a civil union in which the civil union partners have lived together as civil union partners— 30
  - “(i) for a period of less than 3 years; or
  - “(ii) for a period of 3 years or longer, if the Court, having regard to all the circumstances of the civil union, considers it just to treat the civil union as a relationship of short duration:” 35

Insert in subsection (2), after the expression “(a)(i)”, the expression “, (ab)(i),”.

Part 4—continued

**Section 2E**—continued

Insert in subsection (2), after the word “wife”, the words “, civil union partners,”.

**Section 2F(1)**

Repeal and substitute:

“(1) For the purposes of this Act, the share of a spouse~~⟨, civil union partner, or de facto partner⟩~~ ⟨or partner⟩ in the relationship property is to be determined as at the following date:

“(a) if the spouses’ marriage, the civil union partners’ civil union, or the de facto partners’ de facto relationship has not ended, the date of the application to the Court: 10

“(b) if the spouses’ marriage, the civil union partners’ civil union, or the de facto partners’ de facto relationship has ended (other than by the death of 1 of the spouses~~⟨, civil union partners, or de facto partners⟩~~ ⟨or partners⟩), the date on which their marriage, civil union, or de facto relationship ended.” 15

**Section 4(3)(b)**

Insert, after the word “wife”, the words “, civil union partners,”.

**Struck out (majority)**

**Section 8(1)(c)**

Insert, after the word “wife”, the words “or by the civil union partners”. 20

**Section 9(4)(a)**

Insert, after the word “wife”, the words “or as civil union partners”.

**Section 13(1)**

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**New (majority)**

Omit the words “de facto” in the first place where they appear.

Insert, after the word “marriage”, the words “or of each civil union partner to the civil union”.

**New section 14AA**

Insert, after section 14:

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Part 4—*continued***New section 14AA**—continued**“14AA Civil unions of short duration**

- “(1) This section applies if a civil union is a relationship of short duration (as defined in section 2E).
- “(2) If this section applies, sections 11(1)(a), 11(1)(b), 11A, 11B, and 12 do not apply— 5
- “(a) to any asset owned wholly or substantially by 1 civil union partner at the date on which the civil union began; or
- “(b) to any asset that has come to 1 civil union partner, after the date on which the civil union began,— 10
- “(i) by succession; or
- “(ii) by survivorship; or
- “(iii) as the beneficiary under a trust; or
- “(iv) by gift from a third person; or
- “(c) where the contribution of 1 civil union partner to the civil union has clearly been disproportionately greater than the contribution of the other civil union partner. 15
- “(3) In every case to which **subsection (2)** applies,—
- “(a) the share of each civil union partner in the relationship property is to be determined in accordance with the contribution of each civil union partner to the civil union; and 20
- “(b) the share of each civil union partner in any other relationship property that falls for division under sections 11(1)(a), 11(1)(b), 11A, 11B, and 12, and is not determined in accordance with **paragraph (a)**, is to be determined in accordance with sections 11(1)(a), 11(1)(b), 11A, 11B, and 12. 25
- “(4) If this section applies, each civil union partner is entitled to share equally in any relationship property that falls for division under section 11(1)(c), unless his or her contribution to the civil union has been clearly greater than that of the other civil union partner. 30
- “(5) If, under **subsection (4)**, the civil union partners do not share equally in any relationship property, the share of each civil union partner in that relationship property is to be determined in accordance with the contribution of each civil union partner to the civil union. 35

## Part 4—continued

**New section 14AA**—continued

“(6) This section is subject to sections 15 to 17A.

“(7) In proceedings commenced after the death of 1 of the civil union partners, this section is modified by section 85.”

**Section 15(2)(b)**

Repeal and substitute:

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“(b) the responsibilities of each spouse~~<, civil union partner, or de facto partner>~~ <or partner> for the ongoing daily care of any minor or dependent children of the marriage, ~~<the>~~ civil union, or de facto relationship.”

**Section 15A(2)(b)**

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Repeal and substitute:

“(b) the responsibilities of each spouse~~<, civil union partner, or de facto partner>~~ <or partner> for the ongoing daily care of any minor or dependent children of the marriage, civil union, or de facto relationship.”

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**Section 18(1)**

Insert, after the word “marriage” in the first place where it appears, the words “, civil union,”.

Repeal paragraph (a)(i) and substitute:

“(i) any child of the marriage, civil union, or de facto relationship.”

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**Section 18A(2)<(a)>****New (majority)**

Omit the words “de facto” in the first place where they appear.

Insert <in paragraph (a)>, after the word “marriage,”, the words “or of a civil union partner to the civil union,”.

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**Section 20(1)**

Repeal paragraph (e) of the definition of **relationship debt** and substitute:

“(e) for the purpose of bringing up any child of the marriage, civil union, or de facto relationship.”

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**Section 21(1)**

Insert, after the word “wife”, the words “, civil union partners,”.

## Part 4—continued

**Section 21A(1)**

Insert, after the word “wife”, the words “or civil union partners”.

**Section 21I(2)**

Insert, after the word “married”, the words “or in a civil union”.

**Section 24(1)**

Insert, after the word “marriage” wherever it appears, the words “or civil union”.

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**Section 25(2)**

Insert in paragraph (a), after the word “marriage” in both places where it appears, the words “or civil union”.

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Insert in paragraph (a)(i), after the word “wife”, the words “or civil union partners”.

**Heading above section 26**

Omit from the heading above section 26 the words “*or children of de facto relationship*” and substitute the words “, *civil union, or de facto relationship*”.

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**Section 26**

Omit from the heading to section 26 the words “**or children of de facto relationship**” and substitute the words “, **civil union, or de facto relationship**”.

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Repeal subsection (1) and substitute:

“(1) In proceedings under this Act, the Court must have regard to the interests of any minor or dependent children of the marriage, civil union, or de facto relationship and, if it considers it just, may make an order settling the relationship property or any part of that property for the benefit of the children of the marriage, civil union, or de facto relationship or of any of them.”

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**Section 26A(1)**

Omit all the words after the word “marriage” and substitute the words “, civil union, or de facto relationship”.

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**Section 28A(1)**

Omit all the words after the word “marriage” and substitute the words “, civil union, or de facto relationship, and may also have regard to all other relevant circumstances”.

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**Section 28C**

Omit from subsection (3) all the words after the word “marriage”, and substitute the words “, civil union, or de facto relationship”.

## Part 4—continued

**Section 28C**—continued

Omit from subsection (4) all the words after the word “marriage”, and substitute the words “, civil union, or de facto relationship, where those children live, or will be living, with the applicant”.

**Section 32**

Omit from subsection (1)(b) all the words after the word “marriage”, and substitute the words “, civil union, or de facto relationship<; and>”. 5

**New****Section 37A(1)**

Insert, before the words “de facto”, the words “civil union or”.

**Heading above section 42**

Omit the words “*de facto*”. 10

**Section 44B(1)**

Insert, after the word “marriage”, the words “, the civil union,”.

**Section 44C**

Insert in subsection (1), after the word “marriage”, the words “, the civil union,”. 15

Repeal subsection (4)(e) and substitute:

“(e) whether the spouses<, *civil union partners*, or *de facto partners*> <or partners>, or either of them, or any child of the marriage, civil union, or de facto relationship, is or has been a beneficiary of the trust:”. 20

**Section 44E(1)**

Insert, after the word “marriage”, the words “or the civil union”.

**Section 44F(1)(a)**

Insert, after the word “marriage”, the words “or the civil union”. 25

**Section 51(1)**

Insert, after the word “marriage”, the words “or civil union”.

Omit the word “unmarried” and substitute the words “not married or in a civil union”.

**Section 52**

Insert, after the word “married”, the words “or in a civil union”. 30

## Part 4—continued

**Section 52A**

Insert in the heading, after the word “**marriage**”, the words “**<or>**  
**civil union**”.

Insert in subsection (1)(a), after the word “marriage”, the words “or  
civil union, as the case may be,”. 5

Insert in subsection (2), after the word “marriage” wherever it  
appears, the words “or civil union”.

Insert, after subsection (3):

“(3A) For the purposes of this section, a civil union and a de facto  
relationship are successive if the de facto relationship begins 10  
during the civil union, but after the civil union partners cease  
to live together as civil union partners.”

**Section 55**

Insert, after subsection (1)(a):

“(ab) a civil union has ended when 1 of the civil union 15  
partners dies; or”.

Insert, after subsection (2)(a):

“(ab) after a civil union has ended by separation or  
dissolution, 1 of the civil union partners dies, and no 20  
proceedings under Part 7 are commenced before the  
civil union partner’s death; or”.

**Section 63(b)**

Insert, after the word “spouse”, the words “or civil union partner”.

**Section 64**

Repeal and substitute: 25

“64 **Position of surviving spouse or civil union partner if  
separation order made or marriage or civil union  
dissolved**

A surviving spouse or civil union partner may apply under this  
Act for a division of the relationship property without having 30  
first chosen option A if he or she is in 1 of the following  
situations:

“(a) a separation order is in force in relation to the marriage  
or civil union and the deceased spouse or civil union  
partner dies intestate: 35

“(b) the marriage was ended while both spouses were alive  
by a legal process that occurred within or outside New  
Zealand:



Part 4—*continued***Section 64**—continued

“(c) the civil union was ended while both civil union partners were alive by a legal process that occurs within New Zealand.”

**Section 85**

Insert in the heading, after the word “**Marriages**”, the words “, **civil unions**,”. 5

Insert in subsection (1), after the word “marriage”, the words “or civil union”.

Insert in subsection (1), after the word “spouse”, the words “or civil union partner”. 10

Insert in subsection (2), after the word “marriage” in both places where it appears, the words “or civil union”.

**Section 89(1)**

Repeal and substitute:

“(1) Proceedings may be commenced after the death of 1 of the spouses ~~⟨, civil union partners, or de facto partners⟩~~ ⟨or partners⟩ if,— 15

**Struck out (majority)**

“(a) at the date of the death of the deceased spouse, civil union partner, or de facto partner, the spouses, civil union partners, or de facto partners are living together; or 20

**New (majority)**

“(a) at the date of the death of the deceased spouse or partner, the spouses or partners are living together; or

“(b) in the case of de facto partners, at the date of the death of the deceased de facto partner, the de facto partners are not living together; or 25

“(c) in the case of spouses or civil union partners, at the date of the death of the deceased spouse or civil union partner the following circumstances exist:

“(i) the spouses or civil union partners are not living together; and 30

## Part 4—continued

## Section 89(1)—continued

- “(ii) the marriage or civil union has not been dissolved by an order dissolving the marriage or civil union, and an order has not been made declaring the marriage or civil union to be void *ab initio*; or
- “(d) in the case of spouses or civil union partners, at the date of the death of the deceased spouse or civil union partner the following circumstances exist: 5
- “(i) the spouses or civil union partners are not living together; and
- “(ii) the marriage or civil union has been dissolved by an order dissolving the marriage or civil union, or an order declaring the marriage or civil union to be void *ab initio* has been made; and 10
- “(iii) not more than 12 months have elapsed since the taking effect as a final order of the order dissolving the marriage or civil union or the date of the making of the order declaring the marriage or civil union to be void *ab initio*; or 15
- “(e) in the case of spouses or civil union partners, at the date of the death of the deceased spouse or civil union partner the following circumstances exist: 20
- “(i) the spouses or civil union partners are not living together; and
- “(ii) the marriage or civil union has been dissolved by an order dissolving the marriage or civil union, or an order declaring the marriage or civil union to be void *ab initio* has been made; and 25
- “(iii) more than 12 months have elapsed since the taking effect as a final order of the order dissolving the marriage or civil union or the date of the making of the order declaring the marriage or civil union to be void *ab initio*, but, either before or after the deceased spouse’s or civil union partner’s death, the Court grants an extension under section 24(2).” 30 35
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**Legislative history**

10 March 2005

Divided from Relationships (Statutory References)  
Bill (Bill 151–2) as Bill 151–3P

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