

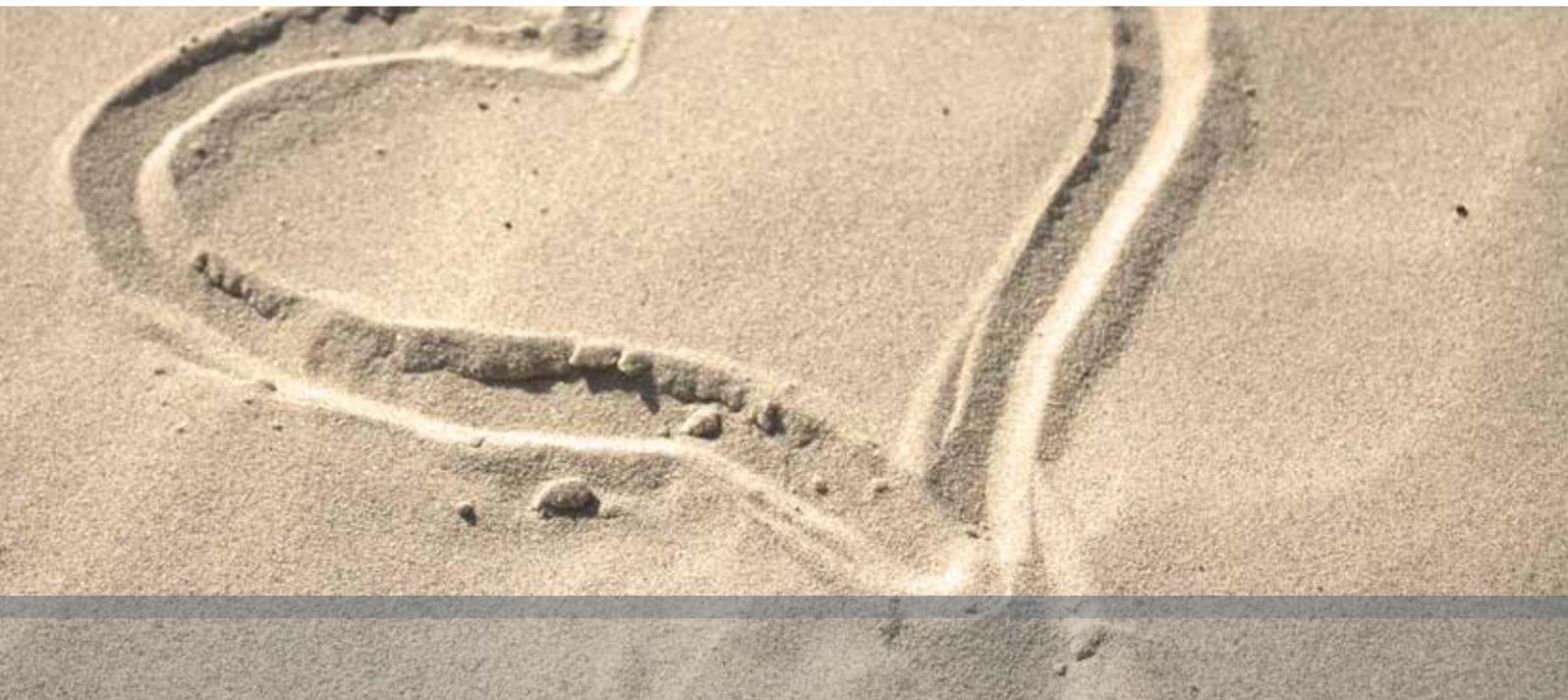
INTERNAL AFFAIRS



Te Tari Taiwhenua

Marriage and Civil Union

A GUIDE FOR COUPLES



What is a marriage?

A marriage is the formalisation of a relationship between two people, regardless of gender, in accordance with the Marriage Act 1955.

What is a civil union?

A civil union is the formalisation of a relationship between two people, regardless of gender, in accordance with the Civil Union Act 2004.

Copies of these Acts are available at www.legislation.govt.nz or at your local library.

ARE THERE DIFFERENT KINDS OF CEREMONY?

There are two types of ceremony:

- a ceremony held by a Registrar in a Registry Office; and
- a ceremony held by an approved celebrant held at a place other than a Registry Office.

Registry Office ceremonies take place during normal office hours, but you can have a celebrant, subject to their agreement, solemnise your ceremony at any time, on any day of the week.

If you decide on a Registry Office ceremony, contact the office to make a booking and to discuss the arrangements. You will be required to bring two witnesses with you on the day of the ceremony. If either of the couple or any of the witnesses do not speak English, you will also be required to provide an interpreter.

WHAT'S THE PROCESS FOR GETTING A LICENCE?

- ✓ A couple are required to complete the appropriate type of 'Notice of Intended Marriage' or 'Notice of Intended Civil Union' form, which includes a statutory declaration that both parties are free to marry or enter into a civil union with each other and that all the details supplied on the form are correct.

- ✓ If you live in New Zealand, one of the parties must appear in person before a Registrar to sign the statutory declaration.
- ✓ The required fee must be paid.
- ✓ The Registrar will (no sooner than three days after receiving the notice) issue the licence, together with two copies of the Copy of Particulars. You will also be given or sent a 'Notification to Registrar of Electors of Intended Marriage/Civil Union' form, for updating your details on the electoral roll.
- ✓ One of the parties will need to deliver these three documents to their celebrant before the ceremony.

If the date of your intended marriage or civil union is more than two weeks after the date that the three documents are to be collected, you may decide to have them couriered to you at your own expense. You should discuss this with the Registry Office.

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

One of the parties must appear in person before a Registrar of Marriages to sign the statutory declaration.

NOTE

If you ordinarily live overseas and want to get married or enter into a civil union in New Zealand, refer to page 8 for further details.



WHAT HAPPENS AT A CEREMONY?

The legislation does not tell you how your ceremony should be performed, but your ceremony must have the following elements:

- ✓ you must have your ceremony at one of the places stated on the licence, and before the licence expires,
- ✓ your relationship must be solemnised by either an approved celebrant or a Registrar,
- ✓ your ceremony must be performed in the presence of at least two other witnesses,
- ✓ for a marriage ceremony, each party must say the words “I AB, take you CD, to be my legal wife/husband/partner” – or words to similar effect,
- ✓ for a civil union ceremony, 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 full names of the bride, bridegroom or partner – as they appear on the licence – must be used at some point in the ceremony to clearly identify each party. Abbreviations and nicknames may then be used in other parts of the ceremony, and
- ✓ the couple, the celebrant and the two witnesses must all sign both copies of the Copy of Particulars.

WHO CAN BE A WITNESS AT THE CEREMONY?

Witnesses must be able to understand what occurs at the ceremony (that is, 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 legislation does not stipulate a minimum age for witnesses.

WHAT HAPPENS AFTER THE CEREMONY?

- ✓ The celebrant sends one Copy of Particulars to the Registrar so the marriage or civil union can be registered with Births, Deaths and Marriages.
- ✓ The celebrant gives the other Copy of Particulars to the couple.

Marriage and Civil Union Certificates may be obtained from Births, Deaths and Marriages by making an application and paying the fee.

WHEN IS CONSENT NEEDED?

The following conditions apply:

- If one or both of the couple are 16 or 17 years of age they will need consent.
- Generally consent must be obtained from each of the legal guardians (usually the parents) – unless they cannot be located or are, as a result of incapacity, unable to give consent;
- If no guardians are able to give consent, consent must be obtained from a relative acting in place of a guardian, or from a Family Court Judge;
- A Family Court Judge can also grant consent if the guardians refuse to give it.

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

If either of the couple is under 16 years of age they cannot get a Marriage or Civil Union Licence.

WHAT ARE THE VARIOUS KINDS OF NOTICE?

There are three types of marriage notice:

- for general use;
- where both parties are ordinarily resident outside New Zealand; and
- for a couple changing their relationship from a marriage to a civil union, or from a civil union to a marriage.

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

Where a couple in a civil union wish to continue in a relationship with each other and are otherwise eligible to marry, they may change the form of their relationship to a marriage without having to formally dissolve their civil union. The process begins with a 'Notice of Intended Marriage, change of relationship from civil union' form.

Similarly, 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. In this case they would begin by completing a 'Notice of Intended Civil Union, change of relationship from marriage' form.

In either case, the couple will be required to produce evidence of their current relationship.

If you live overseas and wish to change your relationship from civil union to marriage or vice versa, you may complete the form – without signing the statutory declaration – and send it to the Registry Office nearest to the place where your relationship is to be solemnised.

On arrival in New Zealand, you will need to sign the statutory declaration in the presence of a Registrar, before a licence can be issued.

WHAT ARE THE REQUIREMENTS FOR INDIVIDUALS WHO HAVE BEEN PREVIOUSLY MARRIED OR IN A CIVIL UNION WITH A DIFFERENT PARTNER?

When giving notice you may be asked to provide evidence of the dissolution of your previous marriage or civil union (for example, Divorce/Dissolution Order).

If your previous partner has died, you will be required to give the date of their death.

WHAT IS A CAVEAT OR NOTICE OF OBJECTION?

A person who believes that there are legal grounds why a licence should not be issued for a couple intending to marry or enter into a civil union may lodge a caveat or notice of objection with a Registrar.

A caveat or notice of objection is a formal notice giving the grounds of objection to a licence being issued.

When a Registrar is aware a relevant caveat or notice of 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).

Caveats and notice of objections expire after one year unless discharged or withdrawn.

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

WHAT IF A COUPLE WANT A CEREMONY IN A CHURCH OR SOME OTHER PLACE OF WORSHIP?

If you intend to marry or enter into a civil union in a church or other place of worship, the administration office of that place of worship will be able to advise whether a celebrant is appointed to perform ceremonies there, and will provide contact details.

HOW DO WE KNOW THE MARRIAGE OR CIVIL UNION CELEBRANT IS APPROVED?

A current list of Marriage or Civil Union Celebrants is available through our website at www.bdm.govt.nz, from your nearest Registrar of Marriages or Civil Unions or by phoning 0800 22 52 52 (NZ only), +64 4 463 9632 (outside New Zealand).

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

HOW MUCH DOES IT COST?

Fees are charged for:

- applying for a Marriage or Civil Union Licence;
- lodging a caveat or notice of objection;
- having a ceremony in a Registry Office; and
- requesting a Marriage or Civil Union Certificate.

Celebrants may charge a fee for solemnising a marriage or civil union. Births, Deaths and Marriages does not set the level of that fee.

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

- You can retain your current surname.
- One party may take the other's surname.
- Both may adopt a combination of their surnames (e.g. as a hyphenated surname).

Many organisations will accept your Copy of Particulars or certificate as evidence of the fact that you have adopted the new surname.

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.

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

- You will need to complete a 'Notice of Intended Marriage, where both parties are ordinarily resident outside New Zealand' or 'Notice of Intended Civil Union, where both parties are ordinarily resident outside New Zealand'.
- Send this notice (with the required fee) to the Registry Office closest to the place where you want to have the ceremony, ensuring that it reaches the Registrar at least a week before you intend to have the ceremony.
- Sign the statutory declaration in front of a Registrar; and collect the licence and the two copies of the Copy of Particulars.
- If a Registrar is to solemnise the marriage or the civil union, the statutory declaration can be signed in the presence 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 (that is, an authorised diplomatic or consular officer of a Commonwealth country).

IF I GET MARRIED OVERSEAS, WILL MY MARRIAGE BE RECOGNISED IN NEW ZEALAND?

Most marriages overseas are recognised in New Zealand. If for any reason you wish to confirm that your overseas marriage is valid in New Zealand you may apply to the Family Court for a declaration as to the validity of the marriage. Contact a lawyer to discuss whether it is necessary to obtain a declaration.

If you wish to marry overseas and would like your marriage registered in New Zealand you must have a New Zealand representative present at your ceremony. The benefit of doing this is that a New Zealand Marriage Certificate can be issued to you, as well as any marriage certificate issued to you in the country in which you were married. The representative's role is to ensure the marriage is solemnised in accordance with the law of that country.

The representative completes a 'Certificate of Marriage Outside New Zealand' and sends it to Births, Deaths and Marriages in New Zealand. The representative may charge a fee for attending your marriage.

To find a New Zealand representative in an overseas country, contact the nearest Ministry of Foreign Affairs office.

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.

WILL OVERSEAS CIVIL UNIONS BE RECOGNISED IN NEW ZEALAND?

Your relationship may be recognised as a civil union in New Zealand if it listed under the Civil Union (Recognised Overseas Relationships) Regulations 2005. If your relationship is legally recognised in New Zealand, the certificate issued in the other country may be used as evidence of that relationship.

If for any reason you wish to confirm that your overseas civil union is valid in New Zealand you may apply to the Family Court for a declaration as to the validity of the civil union. Contact a lawyer to discuss whether it is necessary to obtain a declaration.

For further information, contact your local Registrar of Civil Unions or call free 0800 22 52 52 (within New Zealand only).

WHAT HAPPENS TO THE INFORMATION RECORDED ON THE MARRIAGE AND CIVIL UNION FORMS?

Births, Deaths and Marriages hold and use the information you give us in accordance with the following legislation:

- Marriage Act 1955;
- Civil Union Act 2004;
- Births, Deaths, Marriages, and Relationships 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/sharing programmes approved by the Privacy Commissioner, other organisations may compare information with the Births, Deaths and Marriages Office, within the Department of Internal Affairs.

For a current list of these programmes, visit our website: www.bdm.govt.nz

PROHIBITED DEGREES OF MARRIAGE AND CIVIL UNION

Legislation specifies that a person may not marry or enter into a civil union with a person with whom they have a certain relationship.

A person may not marry or enter into a civil union with their:

- (a) grandparent,
- (b) parent,
- (c) child,
- (d) grandchild,
- (e) sibling,
- (f) parent's sibling,
- (g) sibling's child,
- (h) grandparent's spouse or civil union partner,
- (i) parent's spouse or civil union partner,
- (j) spouse's or civil union partner's parent,
- (k) spouse's or civil union partner's grandparent,
- (l) spouse's or civil union partner's child,
- (m) child's spouse or civil union partner,
- (n) grandchild's spouse or civil union partner, or
- (o) spouse's or civil union partner's grandchild.

This list applies whether the relationships described are by the whole blood or by the half blood.

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

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

OFFENCES

Legislation sets out a number of offences relating to the solemnisation and registration of marriages and civil unions.

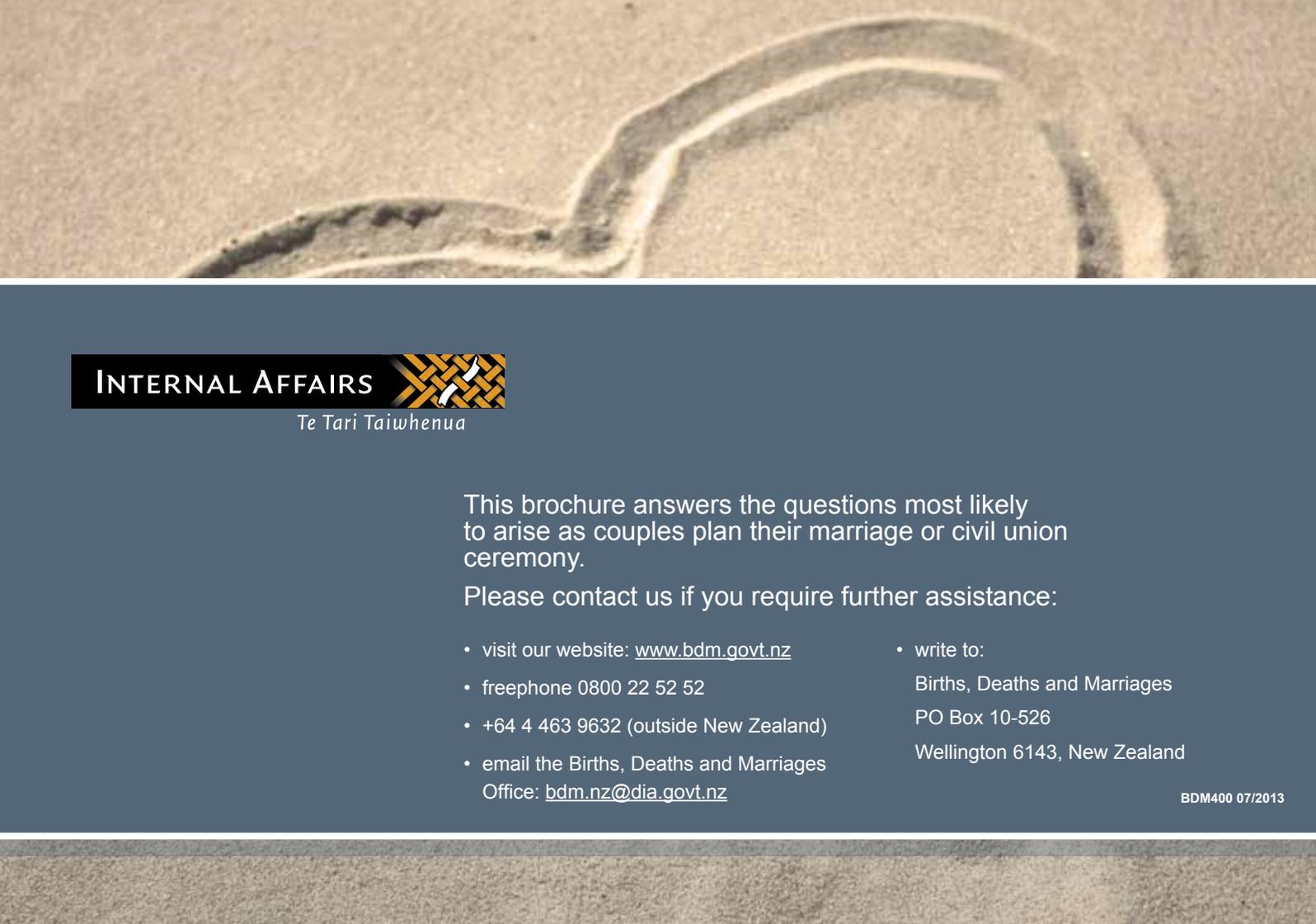
These include:

- solemnising a marriage or civil union when not authorised as a respective Marriage Celebrant or Civil Union Celebrant, or contrary to the requirements of the relevant Act;
- making, or causing to be made, a false declaration for the purposes of the relevant Act;
- making, or causing to be made, for registration purposes, a false statement in respect of any information required to be registered; and
- notifying a Registrar of the lodgement of a caveat or notice of objection when no such caveat or notice of objection has been lodged.

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

- Allow sufficient time for the licence application process. A licence is issued three days after you give notice.
- Ensure all paperwork is completed in full. Incomplete applications may result in processing delays.
- Find a Registrar or approved celebrant to perform your ceremony.
- If you are 16 or 17 years old, make sure you have the required consents.
- If you have an outdoors venue, an alternative venue is recommended.
- If either party has previously been in a marriage or civil union, you may be asked to provide evidence of the dissolution of the previous relationship.

Checklist



INTERNAL AFFAIRS



Te Tari Taiwhenua

This brochure answers the questions most likely to arise as couples plan their marriage or civil union ceremony.

Please contact us if you require further assistance:

- visit our website: www.bdm.govt.nz
- freephone 0800 22 52 52
- +64 4 463 9632 (outside New Zealand)
- email the Births, Deaths and Marriages Office: bdm.nz@dia.govt.nz
- write to:
Births, Deaths and Marriages
PO Box 10-526
Wellington 6143, New Zealand

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