

**Government Response to the Law Commission report
Review of the Property (Relationships) Act 1976
Te Arotake i te Property (Relationships) Act 1976**

Presented to the House of Representatives

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Introduction

The Government welcomes the Law Commission report, *Review of the Property (Relationships) Act 1976 – Te Arotake i te Property (Relationships) Act 1976* ('the report'), which has thoroughly investigated the relationship property regime in New Zealand.

The Government is grateful for the extensive work of the Law Commission on possible improvements to the Property (Relationships) Act 1976 (the PRA).

The report was presented to the House of Representatives on 23 July 2019, and the Government responds to the report in accordance with Cabinet Office circular CO (09) 1.

The Law Commission's recommendations

In its report, the Law Commission makes 140 recommendations relating to the PRA. The report concludes that, while many of the existing rules are satisfactory, the PRA as a whole is no longer fit for purpose.

The report recommends that a new Relationship Property Act be introduced. This new Act would continue to provide a rules-based, deferred property sharing regime to relationships ending by separation.

The report makes a number of recommendations for reform across the relationship property regime. Recommendations include making changes to how property is classified, how children's interests are recognised, and clarifying New Zealand's approach to cross-border issues.

Some recommendations represent a significant departure from the current law:

- that the full value of a family home should no longer automatically be divided in all circumstances, especially where the home was owned before the relationship began or was a third-party gift or inheritance.
- a court should have greater powers to divide trust property when that property was produced, preserved or enhanced by a relationship, and
- the introduction of new Family Income Sharing Arrangements, which would provide a limited entitlement to share family income beyond the end of the relationship, with the aim of better sharing economic advantages and disadvantages created by the partners' differing contributions to the relationship.

The report also recommends that relationships ending on death should be subject to a separate review.

Government response

The Property (Relationships) Act 1976 ('the PRA') has not been subject to a first principles review since it was passed. The Government thanks the Law Commission for its work on this report. The Government also expresses its gratitude for the direct and indirect contributions of those knowledgeable in and those affected by the relationship property regime.

Within the scope of its inquiry, the Law Commission identified a range of recommendations for improvement. The Government acknowledges the Law Commission's assessment that the PRA is no longer fit for purpose for 21st century New Zealand, noting that relationships ending on death were not considered as a part of the review.

The report recommends that the rules applying to relationships ending on death be examined separately, within the context of a broader review of succession law (Recommendation 6). The report also recommends that the Minister Responsible for the Law Commission should ask the Law Commission to undertake a review of succession law (Recommendation 7).

The Government accepts these recommendations. On 12 July 2019, the Minister of Justice referred a review of succession law to the Law Commission for its 2019/20 work programme.

The Government response, in regard to the remaining Law Commission recommendations, is not to give effect to them at this time.

In the past, New Zealand modernised the law on separation but not for relationships that ended by death as, like now, succession law needed examining. The Government considers that a return to differing rules for relationships ending by separation and by death would be undesirable.

Therefore, the Government intends to consider the report's remaining recommendations after the completion of the Law Commission's review of succession law. This will ensure government consideration can be undertaken on the two topics concurrently.