

Terms of reference

The Property (Relationships) Act 1976 ("the Act") created a code which governs the division of property held by married couples, civil union couples and couples who have lived in a de facto relationship when they separate or one of them dies.

The Act was amended in 2001 and 2005 to extend its application to civil unions and de facto partnerships but has not been comprehensively reviewed since its inception. Over time the Act affects almost every New Zealander, both adults and children, and as such it should be reviewed to ensure that it is operating appropriately and effectively.

The Law Commission's review of the Act will include (but not be limited to) the following matters:

1. The definitions of property, relationship property, and separate property;
2. How a de facto relationship is defined for the purposes of the Act;
3. Differences in the rules governing de facto relationships and marriages/civil unions;
4. Whether the Act gives rise to matters of particular concern to Māori and how these should be addressed;
5. How the interests of children are recognised and protected under the Act and in how it is applied;
6. How the Act functions in relation to sequential relationships and blended families;
7. The ability to make adjustments to take account of economic disparity between spouses and partners, and other departures from equal sharing as contemplated by the Act;
8. The operation of Part 5 of the Act concerning relationship property and creditors;
9. How the Act deals with property held by a company or trust and the powers of the courts in this area;
10. The relationship between and application of the Act and section 182 of the Family Proceedings Act 1980;
11. The provisions relating to contracting out and settlement agreements;
12. The provisions relating to division of property on death;
13. The requirements for disclosure of information in relationship property matters and the consequences for failing to disclose;
14. The jurisdiction of the courts over relationship property matters and the range of orders the courts can make;
15. Whether the Act adequately deals with cross-border issues;
16. Whether the Act facilitates the resolution of relationship property matters in accordance with the reasonable expectations of the parties.

The Law Commission will consult with experts, stakeholders, and the general public.
