

# DRAFT FOR CONSULTATION

## **Marriage (Definition of Marriage) Amendment Bill**

Member's Bill

### **Explanatory note**

#### **General policy statement**

This Bill amends the Marriage Act 1955 (the **principal Act**) to ensure that its provisions are not applied in a discriminatory manner.

The principal Act does not define marriage and makes no reference to a marriage being between a man and a woman. Essentially the principal Act sets out the technical requirements for the civil regulation of marriage. However, couples, other than a man and a woman, have not been permitted to obtain marriage licences under the principal Act.

This Bill will make it clear that a marriage is a union of 2 people regardless of their sex, sexual orientation, or gender identity. It will ensure that all people, regardless of their sex, sexual orientation, or gender identity will have the opportunity to marry if they so choose. Marriage, as a social institution, is a fundamental human right and limiting that human right to 1 group in society only does not allow for equality. This Bill will ensure that there is equality for people wishing to marry regardless of their sex, sexual orientation, or gender identity and will be in accordance with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### Clause by clause analysis

*Clause 1* is the Title provision.

*Clause 2* is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Marriage Act 1955 is the principal Act.

*Clause 4* provides that the purpose of the Bill is to clarify that a marriage is between 2 people regardless of their sex, sexual orientation, or gender identity.

*Clause 5* inserts in section 2, a definition of **marriage** that is defined as “the union of 2 people, regardless of their sex, sexual orientation, or gender identity”.

*Clause 6* replaces Schedule 2 with the *Schedule 2* set out in the *Schedule* of this Bill. The *Schedule* sets out the prohibited degrees of marriage in gender neutral terms.

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

- 1 Title**  
This Act is the Marriage (Definition of Marriage) Amendment Act **2012**.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**  
This Act amends the Marriage Act 1955 (the **principal Act**).

**4 Purpose**

The purpose of this Act is to amend the principal Act to clarify that a marriage is between 2 people regardless of their sex, sexual orientation, or gender identity.

**5 Section 2 amended (Interpretation)**

In section 2(1), insert in its appropriate alphabetical order: “**marriage** means the union of 2 people, regardless of their sex, sexual orientation, or gender identity”.

**6 Schedule 2 replaced**

Replace Schedule 2 with the **Schedule 2** set out in the **Schedule** of this Act.

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**Schedule**

**s 6**

**Schedule 2 replaced**

**Schedule 2**

s 15(1)

**Prohibited degrees of marriage**

- (1) A person may not marry 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:
  - (o) spouse’s or civil union partner’s grandchild.
- (2) The prohibited degrees of marriage apply whether the relationships described are by the whole blood or by the half blood.
- (3) In this **Schedule**, **spouse** and **civil union partner** includes 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.