

4. Family Court Act 1973

4.1 Background

The [Family Court Act 1973](#) (FCA) came into force on 3 October 1977. The Act established the Family Court (s 3) and stipulated the jurisdiction, powers and authorities available to the Court (s 6).

4.2 Composition and powers of the Family Court

The Chairperson of the Family Court is the Resident Magistrate, or someone appointed by the President after consulting with the Chief Justice (ss 2 and 4 FCA). Members of the Family Court are also appointed by the President, and the Court must be composed of the Chairperson and two or more members (s 4(4)). If a member other than the Chairperson becomes unavailable after a proceeding has commenced, you may continue to determine the matter in the absence of that member (s 11(2)).

Decisions are made by majority (s 5(1)). If the members of the Family Court are divided equally on any decision, the Chairperson has authority to determine the matter. Powers of the court are stipulated by ss 6 to 9 of the Act, which includes the power to compel attendance of witnesses and deal with contempt of court.

4.3 Procedure

You must follow the procedure for trials in the District Court, outlined in Part VI of the Criminal Procedure Act 1972, as much as possible (s 10(1) FCA). In all other matters, you must follow procedure prescribed for the District Court in exercise of its civil jurisdiction where possible. The Chief Justice may also prescribe the procedure to be followed by the Family Court in any type of proceedings (s 10(4) FCA), and make rules for any purpose (s 29 FCA).

Proceedings are not open to the public. Specified individuals who may be present at a hearing include court officers and legal representatives, parents or guardians of parties to the proceedings, and probation or welfare officers (s 18). It is illegal for the parties to be named or for reports of the proceedings to be published unless the Chairperson has given special leave (s 18(2)).

4.4 International obligations

You should have consideration for the Republic's international obligations when making decisions. Particularly relevant to the Family Court are the United Nations [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW), and the [Convention on the Rights of the Child](#) (CRC).

The Human Rights Council considered the Report of the Working Group on the 3rd cycle Universal Periodic Review of the Republic of Nauru on 2 February 2021 ([A/HRC/47/17](#)). As part of these proceedings, the government acknowledged that the minimum marriage age for females had been raised from 16 to 18, which honoured the Republic's commitment to its international rights obligations (at [97]). While the law on same-sex relations had been changed, Nauru did not have plans to recognise same-sex marriages or partnerships (at [98]).