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## Adoption Act 1955

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry of Justice.**

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**An Act to consolidate and amend certain enactments of the Parliament of New Zealand relating to the adoption of children**

Title: amended, on 1 January 1987, pursuant to section 29(2) of the Constitution Act 1986 (1986 No 114).

## 1 Short Title

This Act may be cited as the Adoption Act 1955.

## 2 Interpretation

In this Act, unless the context otherwise requires,—

**adopted child** means any person concerning whom an adoption order is in force

**adoption order** means an adoption order made under this Act; and does not include an interim order

**adoptive parent** means any person who adopts a child in accordance with an adoption order; and, in the case of an order made in favour of a married couple on their joint application, means both the spouses; but does not include a spouse who merely consents to an adoption

**chief executive** means the chief executive of the department

**child** means a person who is under the age of 20 years; and includes any person in respect of whom an interim order is in force, notwithstanding that the person has attained that age

**Commonwealth country** means a country that is a member of the British Commonwealth of Nations; and includes every territory for whose international relations the Government of that country is responsible; and also includes the Republic of Ireland as if that country were a member of the British Commonwealth of Nations

**Commonwealth representative** means an Ambassador, High Commissioner, Minister, Chargé d’Affaires, Consular Officer, Trade Commissioner, or Tourist Commissioner of a Commonwealth country (including New Zealand); and includes any person lawfully acting for any such officer; and also includes any diplomatic secretary on the staff of any such Ambassador, High Commissioner, Minister, or Chargé d’Affaires

**court** means the Family Court or the District Court in its civil jurisdiction; and includes the High Court acting in its jurisdiction on appeal under this Act

**department** means the department for the time being responsible for the administration of the Oranga Tamariki Act 1989

**interim order** means an interim order made under this Act

**Maori** means a person who is a Maori within the meaning of Te Ture Whenua Maori Act 1993

**publish**, in relation to any advertisement, means—

- (a) insert in any newspaper or other periodical publication printed and published in New Zealand; or
- (b) bring to the notice of members of the public in New Zealand in any other manner whatsoever

**Registrar**, in relation to any court, means the Registrar of that court and includes any Deputy Registrar

**relative**, in relation to any child, means a grandparent, brother, sister, uncle, or aunt, whether of the full blood, of the half blood, or by affinity

**social worker**—

- (a) In relation to any application or proposed application by a Maori, whether jointly or singly, for an adoption order in respect of a Maori child, means—
- (i) any Maori person employed as a social worker in the department; or
  - (ii) any member of the Maori community nominated, after consultation with the Maori community, by the chief executive to carry out the duties of a social worker under this Act in respect of the adoption:
- (b) in relation to any other application or proposed application for an adoption order, means—
- (i) any person employed as a social worker in the department; or
  - (ii) if the court so directs, any member of the Maori community nominated, after consultation with the Maori community, by the chief executive to carry out the duties of a social worker under this Act in respect of the adoption.

Compare: 1908 No 86 s 15; 1939 No 39 s 34

Section 2 **adoption order**: amended, on 24 September 1965, by section 5(2) of the Adoption Amendment Act 1965 (1965 No 32).

Section 2 **adoption order**: amended, on 1 April 1963, by section 2(a) of the Adoption Amendment Act 1962 (1962 No 134).

Section 2 **adoptive parent**: amended, on 19 August 2013, by section 9 of the Marriage (Definition of Marriage) Amendment Act 2013 (2013 No 20).

Section 2 **chief executive**: inserted, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 2 **child**: amended, on 1 January 1971, by section 6 of the Age of Majority Act 1970 (1970 No 137).

Section 2 **child welfare officer**: repealed, on 1 April 1972, by section 23(1) of the Department of Social Welfare Act 1971 (1971 No 60).

Section 2 **court**: replaced, on 1 October 1981, by section 17(1) of the Family Courts Act 1980 (1980 No 161).

Section 2 **court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2 **department**: inserted, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 2 **department**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 2 **Director-General**: repealed, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 2 **father**: repealed, on 1 January 1970, by section 12(2) of the Status of Children Act 1969 (1969 No 18).

Section 2 **Maori**: amended, on 23 March 1995, by section 2(1) of the Adoption Amendment Act 1995 (1995 No 4).

Section 2 **Registrar**: amended (with effect on 27 October 1955), on 24 September 1965, by section 2(2) of the Adoption Amendment Act 1965 (1965 No 32).

Section 2 **relative**: replaced, on 1 January 1970, by section 12(2) of the Status of Children Act 1969 (1969 No 18).

Section 2 **social worker**: replaced, on 23 March 1995, by section 2(2) of the Adoption Amendment Act 1995 (1995 No 4).

Section 2 **social worker** paragraph (a)(i): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 2 **social worker** paragraph (a)(i): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 2 **social worker** paragraph (a)(ii): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 2 **social worker** paragraph (b)(i): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 2 **social worker** paragraph (b)(i): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 2 **social worker** paragraph (b)(ii): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 2 **Superintendent of Child Welfare**: repealed, on 1 April 1972, by section 23(2) of the Department of Social Welfare Act 1971 (1971 No 60).

### *Making of adoption orders*

#### **3 Power to make adoption orders**

- (1) Subject to the provisions of this Act, a court may, upon an application made by any person whether domiciled in New Zealand or not, make an adoption order in respect of any child, whether domiciled in New Zealand or not.
- (2) An adoption order may be made on the application of 2 spouses jointly in respect of a child.
- (3) An adoption order may be made in respect of the adoption of a child by the mother or father of the child, either alone or jointly with his or her spouse.

Compare: 1908 No 86 ss 16, 17; Adoption Act 1950 s 1 (UK)

#### **4 Restrictions on making adoption orders**

- (1) Except in special circumstances, an adoption order shall not be made in respect of a child unless the applicant or, in the case of a joint application, one of the applicants—
  - (a) has attained the age of 25 years and is at least 20 years older than the child; or
  - (b) has attained the age of 20 years and is a relative of the child; or
  - (c) is the mother or father of the child.