

Version  
as at 28 October 2021



## Adoption (Intercountry) Act 1997

Public Act	1997 No 109
Date of assent	17 December 1997
Commencement	see section 1(2)

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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—**

- (a) to implement in the law of New Zealand the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption; and
- (b) to provide for the approval of organisations as accredited bodies to whom functions may be delegated under the Convention; and
- (c) to make other provision for intercountry adoption and other matters related to adoption

**1 Short Title and commencement**

- (1) This Act may be cited as the Adoption (Intercountry) Act 1997.

- (2) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 1(2): Adoption (Intercountry) Act 1997 brought into force, on 1 January 1999, by clause 2 of the Adoption (Intercountry) Act Commencement Order 1998 (SR 1998/427).

Section 1(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 2 Interpretation

In this Act, unless the context otherwise requires,—

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

**Contracting State** means, subject to Article 45 of the Convention, a country for which the Convention is for the time being in force as between that country and New Zealand

**Convention** means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption signed at The Hague on 29 May 1993, a copy of the English text of which is set out in the Schedule

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

**New Zealand accredited body** means an organisation approved as an accredited body under Part 2 and the Convention

**New Zealand Central Authority** has the meaning given by section 5

**organisation** means any body or organisation, whether incorporated or unincorporated.

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 **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).

## 3 Act binds the Crown

This Act binds the Crown.

## Part 1

### Intercountry adoption

#### 4 Convention to have force of law

Subject to the provisions of this Act, the provisions of the Convention have the force of law in New Zealand.

#### 5 New Zealand Central Authority

- (1) The chief executive is the New Zealand Central Authority for the purposes of the Convention.
- (2) The chief executive has all the duties, may exercise all the powers, and must perform all the functions that a Central Authority has under the Convention.
- (3) The chief executive may not be made subject to any order to pay costs relating to adoptions in relation to the exercise or performance, by the chief executive, of any of the chief executive's duties, powers, or functions as the New Zealand Central Authority.

Compare: 1991 No 19 s 7

Section 5(1): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 5(2): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 5(3): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

#### 6 Delegation of functions

- (1) The New Zealand Central Authority may, to the extent permitted by the Convention and by any regulations made under this Act, delegate the functions of a Central Authority under Article 9 or Chapter IV of the Convention to public authorities or New Zealand accredited bodies.
- (2) No such delegation prevents the exercise of any functions by the New Zealand Central Authority.

#### 7 Chief executive must offer choice of report-writing service

- (1) The chief executive must, on application by prospective adoptive parents, prepare reports under the Convention as to their eligibility and suitability to adopt.
- (2) Subsection (1) applies notwithstanding that the function of preparing those reports may also have been delegated to any public authority or New Zealand accredited body.
- (3) This section applies for the purpose of offering prospective adoptive parents a choice of whether the report is prepared by a Government or non-Government agency.

Section 7 heading: amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Section 7(1): amended, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

## **8 Authority for New Zealand accredited bodies to act overseas**

The New Zealand Central Authority may authorise a New Zealand accredited body to act in another Contracting State.

## **9 Authority for overseas accredited bodies to act in New Zealand**

The New Zealand Central Authority may authorise a body accredited under Chapter III of the Convention in another Contracting State to act in New Zealand.

## **10 Approval of placement**

- (1) A child who is habitually resident in another Contracting State must not be entrusted to prospective adoptive parents who are habitually resident in New Zealand unless the New Zealand Central Authority has approved the decision.
- (2) Where the New Zealand Central Authority refuses to approve such a decision, the Authority must give notice in writing to the prospective adoptive parents of the refusal and the reasons for it.

## **11 Recognition of Convention adoptions**

- (1) An adoption made in accordance with the Convention, subject to Article 24 of the Convention,—
  - (a) must be recognised in accordance with the Convention; and
  - (b) for the purposes of this Act and all other New Zealand enactments and laws, has, subject to section 12, the same effect as an adoption order validly made under the Adoption Act 1955.
- (2) A certificate signed by the competent authority in the State where the adoption took place and stating that the adoption was made in accordance with the Convention is for all purposes *prima facie* evidence of that fact.
- (3) The Family Court may, under Article 24 of the Convention, refuse to recognise an adoption made in accordance with the Convention, subject to such terms and conditions as it thinks fit.
- (4) No application to the court under subsection (3) may be made without the prior approval of the Attorney-General.
- (5) Every application to the court under subsection (3) must be heard as soon as practicable.

## **12 Termination of pre-existing legal parent-child relationships**

- (1) An adoption in accordance with the Convention does not have the effect of terminating a pre-existing legal parent-child relationship unless—