

ADOPTION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Adoption Act 1955.

Clause 1 relates to the Short Title to the Bill.

Clause 2 amends the definition of the term "Court" so as to include the Supreme Court acting in its jurisdiction on appeal under the principal Act. Cf. *Clauses 3, 4, and 5*.

Clause 3 gives a right of appeal to the Supreme Court against the refusal of a Magistrate's Court to dispense with the consent of any parent or guardian or spouse.

Clause 4 gives an appeal to the Supreme Court against the revocation of an interim order or the refusal to revoke such an order.

Clause 5 gives an appeal to the Supreme Court against the refusal of a Magistrate's Court to make an interim order or an adoption order.

Clause 6 amends section 17 of the principal Act so as to recognise that overseas adoption orders are in some cases made by a judicial or public authority, and so as to enable the Governor-General, by Order in Council, to extend the list of countries whose adoption orders are recognised in New Zealand without proof to the Court of their effect as regards succession to property on intestacy. The clause also amends section 17 so as to provide that the production of a document purporting to be the original or a certified copy of an order or record of adoption made by a Court or a judicial or public authority in any place outside New Zealand shall in the absence of proof to the contrary be sufficient evidence that the adoption was made and that it is legally valid according to the law of that place.

Clause 7 provides that on an appeal to the Supreme Court under the Adoption legislation the provisions of section 72, subsections (2), (3), and (4) of section 73, and sections 75, 76, and 78 of the Magistrates' Courts Act 1947 relating to procedure shall apply so far as they are applicable and with any necessary modifications.

Hon. Mr Hanan

ADOPTION AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Adoption Act 1955

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Adoption Amendment Act 1965, and shall be read together with and deemed part of the Adoption Act 1955* (hereinafter referred to as the principal Act).

10 **2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “Court” (as inserted by paragraph (c) of section 2 of the Adoption Amendment Act 1962), and substituting the following definition:

*1957 Reprint, Vol. 1, p. 79
Amendment: 1962, No. 134

“‘Court’ means a Magistrate’s Court of civil jurisdiction; and includes the Supreme Court acting in its jurisdiction on appeal under this Act:”.

(2) Paragraph (c) of section 2 of the Adoption Amendment Act 1962 is hereby consequentially repealed. 5

3. Appeal against refusal to dispense with consent—Section 8 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) In any case where a Magistrate’s Court has refused to make an order dispensing with the consent of any parent or guardian or spouse, the person or persons who sought the dispensation may, within one month after the date of the refusal, appeal to the Supreme Court against the refusal; and the Supreme Court may dispense with the consent if it thinks fit.” 10 15

4. Appeal in respect of revocation of interim order—Section 12 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Where on the application of any person a Magistrate’s Court has refused to revoke an interim order in respect of any child, that person may, within one month after the date of the refusal, appeal to the Supreme Court against the refusal; and the Supreme Court may in its discretion make any order which the Magistrate’s Court could have made under subsection (1) of this section. 20 25

“(1B) Where any interim order has been revoked as aforesaid, the person or persons in whose favour the interim order was made may, within one month after the date of the revocation, appeal to the Supreme Court against the revocation or against the terms of the revocation; and the Supreme Court may, if it thinks fit, cancel the revocation or vary the terms thereof.” 30

5. Appeal against refusal to make interim order or adoption order—(1) The principal Act is hereby amended by inserting after section 13, the following section: 35

“13A. In any case where a Magistrate’s Court has refused to make an interim order or an adoption order in respect of any child, the person or persons who applied for the order may, within one month after the date of the refusal, appeal to the Supreme Court against the decision; and the Supreme Court may, if it thinks fit, grant the order that is sought.” 40

(2) Section 2 of the principal Act is hereby amended by omitting from the definition of the term "adoption order" the words "by a Magistrate's Court".

5 (3) Section 13 of the principal Act, as amended by section 5 of the Adoption Amendment Act 1962, is hereby further amended by omitting from paragraph (b) of subsection (3) the word "and".

10 (4) Section 13 of the principal Act, as so amended, is hereby further amended by repealing paragraph (c) of subsection (3), and substituting the following paragraphs:

"(c) No proceedings for the revocation of the interim order are pending in a Magistrate's Court or on an appeal to the Supreme Court; and

15 "(d) A Magistrate's Court has not, within the immediately preceding month, refused to revoke the interim order."

6. Effect of overseas adoption—(1) Section 17 of the principal Act is hereby amended by repealing subparagraph (i) of paragraph (c) of subsection (2), and substituting the following subparagraph:

20 "(i) The adoption order was made by any Court or judicial or public authority whatsoever of a Commonwealth country, or of the United States of America, or of any State or territory of the United States of America, or of any other country which the Governor-General, by an Order in Council that is for the time being in force, has directed to be deemed to be referred to in this subparagraph; or".

30 (2) Section 17 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsection:

35 "(2A) The production of a document purporting to be the original or a certified copy of an order or record of adoption made by a Court or a judicial or public authority in any place outside New Zealand shall, in the absence of proof to the contrary, be sufficient evidence that the adoption was made and that it is legally valid according to the law of that place."

7. Procedure on appeals—On any appeal to the Supreme Court under this Act, the provisions of section 72, subsections 40 (2), (3), and (4) of section 73, and sections 75, 76, and 78 of the Magistrates' Courts Act 1947 shall apply so far as they are applicable and with any necessary modifications.