



ADOPTION (INTERCOUNTRY) REGULATIONS 1998

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 30th day of November 1998

Present:

THE RIGHT HON JENNY SHIPLEY PRESIDING IN COUNCIL

PURSUANT to section 24 of the Adoption (Intercountry) Act 1997, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

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3. Functions of Central Authority that may be delegated to New Zealand accredited bodies | 4. Separation of delegated functions
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Adoption (Intercountry) Regulations 1998.

(2) These regulations come into force on 1 January 1999.

2. Interpretation—In these regulations, “the Act” means the Adoption (Intercountry) Act 1997.

3. Functions of Central Authority that may be delegated to New Zealand accredited bodies—(1) The New Zealand Central Authority

may delegate to public authorities or New Zealand accredited bodies the functions of a Central Authority as set out in the Convention under—

- (a) Article 9:
- (b) Paragraph 1 of Article 15:
- (c) Article 18:
- (d) Paragraphs 2 and 3 of Article 19:
- (e) Article 20.

(2) Although the New Zealand Central Authority is able to delegate the functions in paragraph 1 of Article 15, the following tasks relating to those functions must be retained and must not be delegated by the New Zealand Central Authority:

- (a) Obtaining medical reports in respect of prospective adoptive parents:
- (b) Making inquiries of the police as to whether anything is known about the character of the prospective adoptive parents:
- (c) Making inquiries of any referees as to the suitability of the prospective adoptive parents to adopt a child.

4. Separation of delegated functions—If the functions of a Central Authority as set out in paragraph 1 of Article 15 are delegated to an accredited body under regulation 3, the New Zealand Central Authority must not delegate any other functions of a Central Authority to that body.

5. Competent authorities for purposes of Convention—(1) The New Zealand Central Authority is the competent authority in relation to New Zealand for the purposes of Articles 4, 5, 12, 23, 29, and 34 of the Convention.

(2) The Director-General and the New Zealand Central Authority are the competent authorities in relation to New Zealand for the purpose of Article 11 of the Convention.

(3) The Director-General and the New Zealand Central Authority and any public authority or New Zealand accredited body that is performing, under a delegation under section 6 of the Act, functions in relation to an intercountry adoption, are competent authorities in relation to New Zealand for the purposes of Articles 30, 33, and 35 of the Convention.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 January 1999, provide for the delegation of some of the functions of the New Zealand Central Authority under the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption to public authorities and New Zealand accredited bodies. New Zealand acceded to the Convention on 18 September 1998. The Director-General of Social Welfare is the person with the authority to make the actual delegations.

The following functions may be delegated under *regulation 3 (1)*:

Article 9

- collecting, preserving, and exchanging information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption
- facilitating, following, and expediting proceedings with a view to obtaining the adoption

- promoting the development of adoption counselling and post-adoption services in New Zealand
- providing general evaluation reports about experience with intercountry adoption
- replying, in so far as is permitted by the law of New Zealand, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation:

Article 15

- preparing reports, including information about applicants' identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care:

Article 18

- taking all necessary steps to obtain permission for the child to leave their country of origin and to enter and reside permanently in New Zealand:

Article 19

- ensuring that transfers take place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents
- if the transfer of the child does not take place, the sending back of the reports referred to in Articles 15 and 16 to the authorities who forwarded them:

Article 20

- keeping Central Authorities informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Regulation 3 also prohibits the delegation of certain functions. These are set out in *regulation 3 (2)*.

Where an assessment or report-writing function has been delegated to an accredited body, *regulation 4* provides that no other Convention functions may be delegated to that body.

As the Convention contains a number of references to a "competent authority" or "competent authorities", *regulation 5* defines, in relation to New Zealand, which persons and bodies are competent authorities for the purpose of the Convention.

Issued under the authority of the Acts and Regulations Publication Act 1989.

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These regulations are administered in the Ministry of Justice.