

Overseas Adoptions Legislation Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Overseas Adoptions Legislation Bill and recommends that it be passed. We recommend all amendments unanimously.

About the bill as introduced

The Overseas Adoptions Legislation Bill is an omnibus bill that would amend the Adoption Act 1955 and the Citizenship Act 1977, and some secondary legislation. Its single broad policy objective is to establish an enduring system for international and overseas adoptions¹ that:

- supports the wellbeing and best interests of adopted people and prevents exploitation
- aligns with New Zealand's international obligations
- upholds the integrity of New Zealand's immigration and citizenship systems.

The Adoption Amendment Act 2025 was passed under urgency in September 2025. It temporarily suspended the recognition for citizenship and immigration purposes of some overseas adoptions. Before those changes, New Zealand's international adoption system lacked safeguards to protect children and young people from harm. The

¹ International adoptions are where the child and adoptive applicants live in two different countries and the child is adopted through the New Zealand Family Court under section 3 of the Adoption Act. Overseas adoptions are where the adoption occurs through another country's domestic adoption system, such as an overseas court. New Zealand may recognise overseas adoptions under section 17 of the Adoption Act.

lack of safeguards led to some children and young people experiencing serious harm, including exploitation and abuse by their adoptive families.

The bill would replace the temporary changes made to the Adoption Act and repeal the Adoption Amendment Act 2025. Changes proposed by the bill include:

- limiting circumstances in which an adoption application can be made to the Family Court
- setting out how adoptions granted in overseas jurisdictions would be recognised by New Zealand for citizenship and immigration purposes
- establishing an immigration pathway for adoptions made in designated countries by adopting parents who are ordinarily resident in New Zealand.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Commencement date

Clause 2 of the bill as introduced provides that the bill would come into force on 1 May 2027. We understand that implementation planning has identified that more time is needed for operational changes and to provide training and guidance for the agencies that will implement the changes. We therefore recommend amending the commencement date to 30 June 2027. We note that this is the latest date the changes can take effect before the temporary amendments to the Adoption Act made by the Adoption Amendment Act 2025 are repealed on 1 July 2027 and the legislation that existed prior to 18 September 2025 comes back into force.

Definition of “overseas adoption”

Clause 4 would amend section 2 of the Adoption Act, which contains the interpretation section. It would replace the definition of “overseas adoption” to mean an adoption, in any place outside New Zealand that:

- was in accordance with the law of that place and is legally valid; and
- creates a legal parent–child relationship between the adopting parent (or adopting parents) and the adopted person; and
- affords to the adopting parents greater responsibilities, rights, and duties in respect of the adopted person than the birth parents (or would have done if the adopted person was a young adopted person).

We note that immigration officers would need to apply the test relating to the responsibilities, rights, and duties of the adopting parent. One of the key factors that they would need to consider are the adoption’s effect on the day-to-day care of a child. We consider that it would assist immigration officers if the bill was clearer on this point. We recommend amending the definition of “overseas adoption” in section 2(1) to specify that the reference to “responsibilities, rights, and duties” would include responsibility for the day-to-day care of the child.

Applications for adoption orders

Clause 5 would insert section 3AAA into the Adoption Act. Proposed new section 3AAA sets out the grounds on which an application for an adoption order could be made. A Family Court Associate or Judge must be satisfied of certain matters before determining that an application can be made. It would limit the Family Court's jurisdiction to ensure that it only heard international adoption applications involving at least one person who is ordinarily resident in New Zealand, unless the adoption formalises an international surrogacy arrangement.

The bill as introduced may have inadvertently excluded the right to appeal a determination made under new section 3AAA. Although an appeal to the High Court may still be available under section 124 of the District Court Act 2016, we consider that the bill should include an explicit appeal right. We recommend inserting section 3AAA(5) accordingly.

Proposed new section 3AAA(1)(a)(ii) would enable an application for an adoption order to be made when only the applicant (or one of the applicants) or the child was ordinarily resident in New Zealand. An application for an adoption order could only be made if a Family Court Associate or Judge was satisfied that there were exceptional circumstances and the welfare and best interests of the child would be promoted by making the application.

We recommend that when considering the welfare and best interests of the child, the Family Court Associate or Judge should be required to take into account the wishes of the child, having regard to the age and maturity of the child.

We note that this is the same requirement as in section 11 of the Adoption Act, which requires the court to consider the wishes of the child when determining whether an adoption order promotes their welfare and interests. The consideration should have regard to the age and understanding of the child. We consider that the bill should replicate this provision, and we recommend inserting section 3AAA(2A) to this effect.

DNA testing to determine a genetic link

Clause 5 would also insert section 3AAB into the Adoption Act. Proposed new section 3AAB would apply if an applicant for an adoption order made under new section 3AAA(1)(a)(ii) or (b) alleged that they had a genetic link to the child who was the subject of the application. Those sections relate to an adoption application where one or both applicants, or the child, are overseas, or where it seeks to formalise an international surrogacy arrangement. Proposed new section 3AAB states that the court may recommend that the applicants arrange for DNA testing to be carried out and for a DNA report to be submitted to the court. The bill defines "DNA report" as a report that provides an analysis and a summary of the results of the DNA testing carried out by a provider and that is compiled by a qualified person.

For clarity, we recommend amending paragraph (b) of the definition of DNA report in section 3AAB(5) to specify that a "qualified person" is someone who is qualified to analyse and summarise the results of a DNA test.

Proposed new section 3AAB(4) specifies that any DNA report submitted to the court stating that the results of the DNA testing show a genetic link between the applicant and the child is conclusive evidence of that fact. However, we note that DNA reports provided to the court give a probability- or percentage-based likelihood that the applicant and child are related. A summary provided by a report writer would explain the likelihood of a genetic link but would not include a definitive statement on whether the claimed genetic link was proven. There would therefore be no conclusive statement for the court to rely on when considering the report. Consequently, we consider that the provision would likely have no effect and we recommend deleting it.

Proposed new section 3AAB(3) provides that the applicant is liable for all costs incurred in connection with DNA testing and submitting a DNA report to the court. However, section 25 of the Adoption Act prohibits payments in consideration of the making of arrangements for an adoption or proposed adoption. Breaching this prohibition is a criminal offence under section 27. We therefore recommend amending section 3AAB(3) to make it clear that the prohibition would not apply to costs and expenses associated with obtaining DNA evidence.

Effect of overseas adoptions

Section 17 of the Adoption Act allows for the recognition of adoptions made in other countries. It does not apply to adoptions that occur under the Hague Convention² because the convention provides a separate pathway for recognising intercountry adoptions. Clause 8 would replace section 17(2) to (4) with new subsections (2) and (3). The subsections would limit the circumstances in which an overseas adoption would be recognised for citizenship and immigration purposes. The bill's proposed amendments are intended to allow for additional scrutiny to ensure the safety of a child seeking to enter New Zealand after an overseas adoption.

When an adopted person could be granted a visa or entry permission

Proposed new section 17(3)(b) provides that an adopted person could only be granted a visa or entry permission under the Immigration Act 2009 if one of the following circumstances applied:

- The adopting parents were ordinarily resident in a country outside New Zealand for at least 12 months before the adoption order was granted. The primary purpose of that residency could not be related to the adoption (section 17(3)(b)(i)).
- The overseas adoption took place in a country that is a designated country under proposed new section 17A of the bill when the adopting parents were ordinarily resident in New Zealand (section 17(3)(b)(ii)).

² The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

Several submitters considered that the criteria for recognition were too prescriptive, particularly the “ordinarily resident” requirement. They pointed out that a New Zealander who adopted a child while living overseas may have good reasons for not meeting the minimum time frame or primary residency purpose.

We were advised that the “ordinarily resident” requirement is designed to mitigate the risk of harm to children by addressing one of the identified indicators of harm—that is, adopting parents not being genuinely settled in a country. The 12-month requirement was intended to supplement this. It was based on the approach taken in comparable jurisdictions to mitigate the risks of trafficking and circumventing the immigration system.

To enable more flexibility, we recommend removing the minimum 12-month time requirement from section 17(3)(b)(i). We consider that the “minimum time in country” requirement could instead be dealt with through the immigration instructions. Applicants with a recognised adoption would need to meet the applicable criteria in the instructions to be granted a visa. We suggest that the instructions should include a carve-out for exceptional circumstances, to give immigration officers the flexibility to waive the 12-month requirement in certain low-risk scenarios, where it is appropriate and in the best interests of the child.

Process for designating countries for certain purposes

Clause 9 would insert section 17A into the Act to create a way for overseas adoptions to be recognised for immigration purposes under new section 17(3)(b)(ii). It would apply to adopting parents living in New Zealand where the country of adoption is not a signatory to the Hague Convention. Proposed new section 17A would empower the Governor-General, on the recommendation of the Minister of Justice, to formally designate a country through an Order in Council. The Minister would need to consult certain Ministers before recommending a country for designation. The Minister would also need to be satisfied that the country’s regulatory regime has sufficient safeguards to prevent harm to the adopted people, and that the designation would support the country’s relationship with New Zealand.

We note that proposed new section 17A(3) states that a country may be designated subject to any specified limitation or qualification. However, given that exploitation occurs after an adoption takes place, we sought advice as to whether New Zealand could include safeguards at an individual level for adoptions from designated countries. We suggested a provision that would enable the Minister to review the adoption if new information became available.

We were advised that the designation pathway is designed to consider a country’s adoption system rather than adoptions at an individual level. Further, it is important that New Zealand respects and recognises the court decisions of other jurisdictions.

We consider that individual caregiving arrangements should instead be assessed within New Zealand for their risk of harm before an adoption is made through the designation pathway. We recommend inserting such a requirement as section 17(3)(b)(ii)(B). Our proposed amendment would require an Oranga Tamariki report to

be provided to the adoption decision-maker (for example, the overseas country's court). The report would give the decision-maker information about the suitability of the adopting parent or parents to adopt the adopted person.

Other matters that we wish to highlight

We also discussed several matters related to the effect of overseas adoptions. Although we have not recommended any related amendments to the bill, we wish to draw these matters to the attention of the House and to affected adoptive parents.

New Zealand citizenship by descent

Before September 2025, children aged 13 or younger adopted overseas by New Zealand citizens would become citizens by descent, regardless of where the adoption occurred. New Zealanders living overseas could also apply to the Family Court to adopt children from anywhere in the world. Children adopted in the Family Court by New Zealand citizens would become citizens by birth.

The bill provides that children adopted overseas by New Zealand citizens would have to enter New Zealand through an immigration pathway and apply for citizenship by grant once in New Zealand. The Family Court could also only consider applications where at least one of the adoptive applicants or the child was ordinarily resident in New Zealand.

The New Zealand Law Society had several concerns with these provisions. New Zealand citizens living overseas would be unable to obtain citizenship for their adopted children without returning to, and living in, New Zealand. In some situations, adopted children and natural born children within the same family might hold different citizenship if they continued to live overseas. We also received correspondence from a New Zealand citizen who had been living overseas for the past 15 years and had legally adopted four children in an overseas jurisdiction. The adoption of one child was completed before the September 2025 changes, and the child was automatically conferred New Zealand citizenship by descent. However, the adoption orders for the three other children were made after the restrictions commenced so they cannot obtain New Zealand citizenship by descent in the same way as their older sibling.

We share the concerns of the Law Society and the correspondent. We are particularly concerned that, for families living overseas, there is no guaranteed pathway to New Zealand citizenship for their adopted child unless they move home, and once the legislation is in force, meet any revised immigration settings for the grant of New Zealand residence.

In terms of short-term visits, we are also concerned that the adopted children of these families may, depending on the applicable immigration settings, need to obtain a visa to travel to New Zealand. We note that some visas allow multiple visits over a specified period. In addition, children travelling on passports from visa waiver countries do not require a visa to travel to New Zealand but would be required to pay for a New Zealand Electronic Travel Authority and an International Visitor Conservation and Tourism Levy.³

We have been advised that the Ministry of Business, Innovation and Employment will consider appropriate visa settings (for both temporary stays and for those wishing to apply for longer term residence) for children adopted overseas as part of the bill's implementation. The Minister of Immigration has agreed the main design features of additional immigration checks for visa applications relating to children adopted overseas. The checks are intended to be implemented within existing visa types rather than through a new visa category. Guidelines will be updated as needed.

We discussed the policy rationale for no longer automatically conferring citizenship by descent on a child aged 13 or younger adopted overseas by a New Zealand citizen. We were advised that the changes proposed by the bill are intended to prevent harm to adopted children. We received examples of reported cases of harm experienced by children and young people under the previous legislative settings. The children and young people had been adopted overseas and brought to live in New Zealand with no safety checks of the adoptive parents. Further, the New Zealand passport provides visa-free access to a range of countries. Previously, because an adopted child aged 13 or younger at the time of the adoption automatically received citizenship, they could be issued a New Zealand passport without entering New Zealand. The adopted child could then be moved across borders with no safety checks, exposing them to the risks of trafficking. We were advised that removing the automatic conferral of citizenship by descent, combined with enhanced scrutiny in the immigration system, was determined to be the only feasible way of protecting against this harm.

Ministerial discretion to grant citizenship

We have been advised that the Citizenship Act 1977 gives the Minister of Internal Affairs broad discretion to grant citizenship to anyone under the age of 16. For example, an adoptive family that intends to come back to New Zealand periodically, but not reside here permanently, can apply to the Minister of Internal Affairs for a discretionary grant of citizenship. We acknowledge that this option would rely on the discretion of the Minister. While the Minister's discretion to grant citizenship to children aged 15 and under is broad, we note that the threshold in other cases is very high and requires there to be exceptional circumstances in the public interest, so this would not be an appropriate pathway in all cases.

We briefly discussed whether this option could be simplified or codified in legislation. We have not recommended amending the bill to do so. However, we wish to highlight that this is an option for adoptive families. We have been advised that the Department of Internal Affairs intends to publish updated guidance on the Minister's discretion to grant citizenship when the bill is passed.

We have also been advised that, as part of implementation, officials will work together to ensure that clear, comprehensive guidance is available for families

³ New Zealand has visa waiver agreements with 60 countries and jurisdictions.

affected by these changes. We recommend that this guidance includes the process for Ministerial discretion for families with adopted children overseas.

Consideration of a “substantial connection” to New Zealand test

The Law Society suggested that the Family Court’s jurisdiction should be amended to require the adoptive applicants to have a “substantial connection” to New Zealand rather than requiring one of the adoptive applicants or the child to be ordinarily resident in New Zealand. We considered whether the lower threshold of “substantial connection” could still achieve the bill’s objectives of introducing safeguards for overseas adoptions to prevent harm to adopted children and ensuring the integrity of New Zealand’s border and the immigration system. We authorised officials to liaise with the Law Society to consider this proposal.

We received advice that the following problems could occur under the Law Society’s proposal:

- It may be difficult, time consuming, and in some cases not possible, for New Zealand to access information to inform the Family Court’s decision about an adoption. This would weaken safeguard mechanisms related to adoption proceedings and could risk exposing children to harm.
- Comparable jurisdictions require adoptive parents to be resident in the adopting country and generally require the child to be present or resident in that country. Not requiring residency in New Zealand would be out of step with those jurisdictions.
- The lower threshold would enable the Family Court to determine intercountry adoption cases where the adoptive parents are in one overseas country and the child is in another. Applicants with a substantial connection to New Zealand could use the Family Court to avoid more restrictive provisions in the country where they live and that are designed to protect children.
- The lower threshold could be seen as contrary to the principles of private international law related to matters of jurisdiction. This is because the Family Court would be making decisions where all the relevant people are outside New Zealand. The threshold could also be inconsistent with the concept of international comity if the local authority had declined to consider the adoption application.
- “Substantial connection” is a more subjective assessment than “ordinarily resident”, which could make it more difficult to implement, and could create additional uncertainty for applicants.

For the reasons above, we do not recommend changing the threshold for applying for an adoption through the Family Court. We acknowledge that the citizenship provisions in the bill are intended to prevent harm to adopted children. They would also only apply to adoptions that do not occur under the Hague Convention. However, we also recognise that the provisions would introduce an additional barrier for families that have legally adopted children overseas and pose no safety risks.

Risk of statelessness

We also discussed whether there is a risk of any child being left stateless due to the bill's proposed changes. We were advised that the changes in the bill would not affect a child's underlying citizenship. If a child was born stateless, the Minister could grant citizenship on that basis.

Appendix

Committee process

The Overseas Adoptions Legislation Bill was referred to this committee on 12 May 2026. We called for submissions on the bill with a closing date of 23 June 2026. We received and considered submissions from 33 interested groups and individuals. We heard oral evidence from three submitters at hearings by videoconference.

Advice on the bill was provided by the Ministry of Justice, the Department of Internal Affairs, the Ministry of Business, Innovation and Employment, the Ministry of Foreign Affairs and Trade, and Oranga Tamariki. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Committee membership

Tom Rutherford (Chairperson from 2 July 2026)

Hon Andrew Bayly (Chairperson and member until 1 July 2026)

Jamie Arbuckle

Carl Bates

Camilla Belich

Tākuta Ferris

Paulo Garcia (from 1 July 2026)

Rima Nakhle

Dan Rosewarne

Todd Stephenson

Hon Dr Duncan Webb

Dr Lawrence Xu-Nan

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Nicole McKee

Overseas Adoptions Legislation Bill

Government Bill

Contents

		Page
1	Title	3
2	Commencement	3

Part 1

Amendments to Adoption Act 1955

3	Principal Act	3
4	Section 2 amended (Interpretation)	3
5	New sections 3AAA and 3AAB inserted	4
	3AAA Applications for adoption orders	4
	3AAB DNA testing to determine genetic link	6
6	Section 3 amended (Power to make adoption orders)	6
7	Section 10 amended (Social worker to report)	7
8	Section 17 amended (Effect of overseas adoptions)	7
9	New section 17A inserted (Process for designating countries for purpose of section 17(3))	8
	17A Process for designating countries for purpose of section 17(3)	8
10	Section 27E repealed (Power to amend Schedule 1AAB by Order in Council)	9
11	Schedule 1AA amended	9
12	Schedule 1AAB repealed	9

Part 2

Amendments to and repeal of other legislation

Subpart 1—Amendments to Citizenship Act 1977

13	Principal Act	9
14	Section 3 amended (Special provisions relating to parentage)	9

Overseas Adoptions Legislation Bill

15	Section 7 amended (Citizenship by descent)	9
16	Schedule 1AA amended	9
	<u>Subpart 1A—Amendment to Births, Deaths, Marriages, and Relationships Registration Act 2021</u>	
<u>16A</u>	<u>Section 33 amended (Registration of overseas adoptions)</u>	<u>9</u>
	Subpart 2—Amendments to Family Court Rules 2002	
17	Principal rules	10
18	Rule 22 amended (Special rules relating to other documents)	10
19	Rule 62 amended (Forms)	10
20	New rule 62AC inserted (Approved form for use in proceedings under Adoption Act 1955)	10
	62AC Approved form for use in proceedings under Adoption Act 1955	10
21	Rule 240 amended (Interpretation)	10
22	Rule 241 amended (Forms)	10
23	Rule 244 amended (Affidavit to be filed with, or before hearing of, application for adoption order)	11
24	Schedule 1AA amended	11
25	Schedule 2 amended	11
	Subpart 3—Amendments to Adoption Regulations 1959	
26	Principal regulations	12
27	New regulation 2A inserted (Transitional, savings, and related provisions)	12
	2A Transitional, savings, and related provisions	12
<u>27A</u>	<u>Regulation 6 amended (Application for adoption order)</u>	<u>12</u>
28	Regulation 8 amended (Affidavit by applicants)	12
<u>28A</u>	<u>Regulation 9 amended (Consent to adoption)</u>	<u>12</u>
<u>28B</u>	<u>Regulation 11 amended (Notice of making of interim order)</u>	<u>13</u>
<u>28C</u>	<u>Regulation 12 amended (Application for issue of adoption order)</u>	<u>13</u>
<u>28D</u>	<u>Regulation 13 amended (Adoption order)</u>	<u>13</u>
<u>28E</u>	<u>Regulation 16 amended (Forms)</u>	<u>13</u>
29	New Schedule 1AA inserted	13
30	Schedule amended	13
	Subpart 4—Repeal of Adoption Amendment Act 2025	
31	Repeal of Adoption Amendment Act 2025	14
	Schedule 1	15
	New Part 2 inserted into Schedule 1AA of Adoption Act 1955	
	Schedule 2	16
	New Part 3 inserted into Schedule 1AA of Citizenship Act 1977	

Schedule 3	18
New Part 2 inserted into Schedule 1AA of Family Court Rules 2002	
Schedule 4	19
New Schedule 1AA inserted into Adoption Regulations 1959	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Overseas Adoptions Legislation Act **2026**.

2 Commencement

This Act comes into force on ~~1 May 2027~~ **30 June 2027**.

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Part 1
Amendments to Adoption Act 1955

3 Principal Act

This Part amends the Adoption Act 1955.

4 Section 2 amended (Interpretation)

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- (1) In section 2(1), insert in their appropriate alphabetical order:

adopted person, in relation to an overseas adoption, means a person who is adopted pursuant to the overseas adoption

adopting parent means a person who adopts another person pursuant to an overseas adoption

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country includes any State, territory, province, or other part of a country

international surrogacy arrangement means a surrogacy arrangement in which some or all of the parties to the arrangement reside outside New Zealand (in the same or different countries)

ordinarily resident has the meaning given to it by **subsection (3)**

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- (2) In section 2(1), replace the definition of **overseas adoption** with:

overseas adoption means an adoption, in any place outside New Zealand, that—

(a) was in accordance with the law of that place and is legally valid; and

(b) creates a legal parent–child relationship between the adopting parent (or adopting parents) and the adopted person; and

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(c) affords to the adopting parent (or adopting parents) greater responsibilities, rights, and duties in respect of the adopted person than the birth parents (or would have done if the adopted person was a young adopted

	person) (including responsibility for the day-to-day care of the adopted person, if the adopted person is a young person)	
(3)	In section 2(1), repeal the definitions of—	
	(a) exempt country ; and	
	(b) prescribed overseas country .	5
(4)	In section 2(2), replace “is, in the absence of proof <u>to the contrary</u> ,” with “may, in the absence of proof <u>to the contrary</u> , be”.	
(5)	After section 2(2), insert:	
(3)	For the purposes of this Act, a person is to be treated as ordinarily resident in a country if the person is lawfully residing in the country and—	10
	(a) the person has a permanent place of residence in the country; or	
	(b) the person intends to reside in the country indefinitely.	
	Guidance note	
	A person’s intention to reside in a country indefinitely may be demonstrated by the extent of the person’s—	15
	(a) economic ties to the country (for example, whether they have employment in the country); and	
	(b) social ties to the country (for example, whether they have family connections, or participate in community organisations or groups, in the country).	
5	New sections 3AAA and 3AAB inserted	20
	Before section 3, insert:	
	3AAA Applications for adoption orders	
(1)	An application for an adoption order in respect of a child may be made only if—	
	(a) a Family Court Associate or Judge is satisfied that—	25
	(i) the applicant (or both applicants in the case of a joint application) and the child are ordinarily resident in New Zealand; or	
	(ii) the applicant (or one of the applicants in the case of a joint application) or the child is ordinarily resident in New Zealand and—	
	(A) there are exceptional circumstances; and	30
	(B) the welfare and best interests of the child will be promoted by the making of the application; or	
	(b) a Judge is satisfied that the need for the adoption arises because of an international surrogacy arrangement that was entered into and carried out in accordance with all applicable laws (if any) of—	35
	(i) the country in which the surrogacy arrangement was entered into (if not New Zealand):	

- (ii) the country in which an AHR procedure (as defined in section 15 of the Status of Children Act 1969) was performed in conjunction with the surrogacy arrangement (if not New Zealand);
 - (iii) the country in which the child was born (if not New Zealand).
- (2) When determining whether there are exceptional circumstances for the purposes of **subsection (1)(a)(ii)(A)**, the matters that the Family Court Associate or Judge must consider include—
 - (a) whether appropriate arrangements for the care of the child can be made by members of the child's family in any other country; and
 - (b) whether the applicant (or one of the applicants in the case of a joint application) has a genetic or other familial link to the child.
- (2A) When determining the welfare and best interests of the child for the purposes of **subsection (1)(a)(ii)(B)**, the Family Court Associate or Judge must take into account the wishes of the child, having regard to the age and maturity of the child.
- (3) The Family Court Associate or Judge may direct the chief executive to prepare a report to assist the Family Court Associate or Judge—
 - (a) in ascertaining whether all or any of the following persons ordinarily reside in New Zealand:
 - (i) the applicant (or either or both of the applicants in the case of a joint application);
 - (ii) the child; and
 - (b) in considering the matters in **subsection (2)**, if the application is made under **subsection (1)(a)(ii)(A)**.
- (4) A report directed to be prepared under **subsection (3)**—
 - (a) must include—
 - (i) such information that the Family Court Associate or Judge requests; and
 - (ii) any other information that the report writer considers relevant; but
 - (b) need not include any views or conclusions on the matters contained in the report.
- (5) ~~In **subsection (1)(b)(ii)**, AHR procedure has the meaning given in section 15 of the Status of Children Act 1969.~~
- (5) If, under this section, a Family Court Associate or Judge decides not to allow an application for an adoption order to be made in respect of a child, the applicant (or both applicants in the case of a joint application) may appeal to the High Court against the decision and the High Court may, if it thinks fit, allow the application to be made.

3AAB DNA testing to determine genetic link

- (1) This section applies if—
- (a) an application for an adoption order is made in respect of a child under **section 3AAA(1)(a)(ii) or (b)**; and
 - (b) it is alleged that there is a genetic link between the applicant or one of the applicants (in the case of a joint application) and the child. 5
- (2) A Family Court Associate or Judge may recommend that the applicant or applicants arrange for—
- (a) DNA testing to be carried out by a provider on—
 - (i) the applicant or applicants; and 10
 - (ii) the child; and
 - (b) a DNA report to be submitted to the court.
- (3) The applicant or applicants are liable for all costs and expenses incurred in connection with DNA testing and the submission of a DNA report to the court, and the payment of the costs and expenses by the applicant or applicants is not a payment prohibited under section 25. 15
- (4) ~~Any DNA report submitted to the court stating that the results of the DNA testing show a genetic link between the applicant or one of the applicants and the child is conclusive evidence of that fact.~~
- (5) In this section,— 20
- DNA report** means a report that—
- (a) provides an analysis and a summary of the results of DNA testing carried out by a provider; and
 - (b) is compiled by a ~~qualified person who is qualified to analyse and summarise the results of a DNA test~~ 25
- prescribed requirements** means requirements prescribed in regulations relating to—
- (a) quality management systems to ensure appropriate collection, testing, analysis, storage, and disposal of laboratory samples; and
 - (b) competence to produce valid and reliable test results; and 30
 - (c) patient consent, care, and confidentiality
- provider** means a provider who—
- (a) provides DNA testing; and
 - (b) meets the prescribed requirements for the provision of that testing.

6 Section 3 amended (Power to make adoption orders)

- (1) Repeal section 3(1A).
- (2) Repeal section 3(4).

7 Section 10 amended (Social worker to report)

- (1) Replace the heading to section 10 with “**Social worker report required before adoption order made**”.
- (2) After section 10(1), insert:
 - (1A) A report required by subsection (1) is additional to any report obtained by the court under **section 3AAA**.

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8 Section 17 amended (Effect of overseas adoptions)

- (1) Replace section 17(2) to (4) with:
- (2) For the purposes of this Act and all other New Zealand enactments, the overseas adoption has the same effect as an adoption order made under this Act.
- (3) However, the effect of the overseas adoption has the following limitations:
 - (a) the adopted person is not, as a result of the adoption, a New Zealand citizen under the Citizenship Act 1977 (the **Act**), unless the adopted person is deemed to be a child of a New Zealand citizen under section 3(2)(aa) of the Act and the requirements in section 6(1) of the Act are satisfied; and
 - (b) ~~the adopted person cannot, as a result of the adoption, be granted under the Immigration Act 2009 either a visa or an entry permission unless—~~
 - (i) ~~the adopting parent or adopting parents were ordinarily resident in a country outside New Zealand—~~
 - (A) ~~for a period of 12 months or more immediately preceding the date of the overseas adoption; and~~
 - (B) ~~for a primary purpose unrelated to the adoption of a person; or~~
 - (ii) ~~the overseas adoption took place in a designated country (consistent with any limitation or qualification imposed on the country’s designation under **section 17A(3)**) when the adopting parent or adopting parents were ordinarily resident in New Zealand.~~
 - (b) the adopted person cannot, as a result of the adoption, be granted either a visa or entry permission under the Immigration Act 2009 unless—
 - (i) the adopting parent was, or both the adopting parents were, ordinarily resident in a country outside New Zealand immediately preceding the date of the overseas adoption for a primary purpose unrelated to the adoption of a person; or
 - (ii) the overseas adoption took place—
 - (A) in a designated country (consistent with any limitation or qualification imposed on the country’s designation under **section 17A(3)**) when the adopting parent was, or both

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	<u>the adopting parents were, ordinarily resident in New Zealand; and</u>	
	(B) <u>after the chief executive provided to the court or other public authority making the overseas adoption determination (or to a person in the designated country for transmission to the court or public authority) a report about the suitability of the adopting parent, or both the adopting parents, to adopt the adopted person.</u>	5
(2)	After section 17(5), insert:	
(6)	In subsection (3)(b)(ii) , designated country means a country designated by the Governor-General by Order in Council made under section 17A .	10
9	New section 17A inserted (Process for designating countries for purpose of section 17(3))	
	After section 17, insert:	
17A	Process for designating countries for purpose of section 17(3)	15
(1)	The Governor-General may, on the recommendation of the Minister of Justice, make an Order in Council designating a country for the purposes of section 17(3)(b)(ii) .	
(2)	Before recommending the designation of a country under subsection (1) , the Minister of Justice must—	20
(a)	consult—	
(i)	the Minister for Children; and	
(ii)	the Minister of Foreign Affairs; and	
(iii)	the Minister of Immigration; and	
(iv)	the Minister of Internal Affairs; and	25
(b)	be satisfied that, having regard to the following matters, the country's regulatory regime affords sufficient safeguards to prevent harm to adopted persons:	
(i)	the country's adoption laws and practices; and	
(ii)	whether any agreement or arrangement exists between the Government of New Zealand and the government of that country in respect of adoptions; and	30
(iii)	any other matters that the Minister considers relevant; and	
(c)	be satisfied that designation of the country will support the country's relationship with New Zealand.	35
(3)	A country may be designated subject to any specified limitation or qualification (for example, a country may be designated only in relation to adoptions made under specified legislation).	

- (4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

10 Section 27E repealed (Power to amend Schedule 1AAB by Order in Council)

Repeal section 27E. 5

11 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

12 Schedule 1AAB repealed

Repeal Schedule 1AAB. 10

Part 2

Amendments to and repeal of other legislation

Subpart 1—Amendments to Citizenship Act 1977

13 Principal Act

This subpart amends the Citizenship Act 1977. 15

14 Section 3 amended (Special provisions relating to parentage)

Repeal section 3(2)(b).

15 Section 7 amended (Citizenship by descent)

Repeal section 7(1A). 20

16 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Subpart 1A—Amendment to Births, Deaths, Marriages, and Relationships Registration Act 2021 25

16A Section 33 amended (Registration of overseas adoptions)

In section 33(1)(a), replace “section 17(1)” with “**section 17(2)**”.

Subpart 2—Amendments to Family Court Rules 2002

17 Principal rules

This subpart amends the Family Court Rules 2002.

18 Rule 22 amended (Special rules relating to other documents)

Replace rule 22(a) with:

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- (a) Adoption Act 1955 (*see* rule 244 – affidavit to be filed with application, and rules 242 and 245 – evidence of child’s identity and other matters to be filed before hearing):

19 Rule 62 amended (Forms)

After rule 62(1)(c)(ii), insert:

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- (iii) is required by rule 244 (*see* **rule 62AC**).

20 New rule 62AC inserted (Approved form for use in proceedings under Adoption Act 1955)

After rule 62AB, insert:

62AC Approved form for use in proceedings under Adoption Act 1955

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- (1) The Secretary for Justice may approve the form for an affidavit that is required by rule 244 to accompany an application for an adoption order made under the Adoption Act 1955.
- (2) The following rules apply to the approved form:
- (a) rule 64 (about size of paper):
- (b) rule 69 (about fastening and numbering of pages):
- (c) rule 70 (about legibility):
- (d) rule 71 (about signatures).
- (3) The approved form must be—
- (a) published on the Ministry of Justice website; and
- (b) available to be downloaded, free of charge, from that internet site.

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21 Rule 240 amended (Interpretation)

In rule 240, insert in its appropriate alphabetical order:

approved form means the form approved by the Secretary for Justice under **rule 62AC** for use by applicants applying for an adoption order under the Act

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22 Rule 241 amended (Forms)

Replace rule 241(2) with:

- (2) Subclause (1) is subject to—

- (a) rule 244; and
- (b) rule 246(2).

23 Rule 244 amended (Affidavit to be filed with, or before hearing of, application for adoption order)

- (1) Replace the heading to rule 244 with “**Affidavit to be filed with application for adoption order**”. 5
- (2) In rule 244, replace “, or file in the court before the hearing, an affidavit” with “an affidavit on an approved form”.
- (3) In rule 244, replace paragraphs (aaa) to (aac) with:
 - (aaa) if the application is made in reliance on **section 3AAA(1)(a)(i) or (ii)** of the Act, provides evidence of the country in which the applicants and the child ordinarily reside: 10
 - (aab) if the application is made in reliance on **section 3AAA(1)(a)(ii)** of the Act, provides evidence of the exceptional circumstances that exist, which may include evidence of a familial or genetic link between the applicants and the child stated in the application (for example, birth certificates showing a familial link or DNA test results showing a genetic link): 15
 - (aac) if the application is made in reliance on **section 3AAA(1)(b)** of the Act, provides evidence of the international surrogacy arrangement: 20

24 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 3** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

25 Schedule 2 amended

In Schedule 2, form A 3, replace the second paragraph 2A and the following paragraph 2A with:

- 2A We are/I am* ordinarily resident in New Zealand, and the child is ordinarily resident in [*country outside New Zealand*] and we/I* make this application in the following exceptional circumstances: [*specify*]. 30

*Select one

or

- 2A We are/I am* ordinarily resident in [*country outside New Zealand*], and the child is ordinarily resident in New Zealand and we/I* make this application in the following exceptional circumstances: [*specify*]. 35

*Select one

or

2A This application is made pursuant to an international surrogacy arrangement [details].

Subpart 3—Amendments to Adoption Regulations 1959

26 Principal regulations

This subpart amends the Adoption Regulations 1959.

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27 New regulation 2A inserted (Transitional, savings, and related provisions)

After regulation 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

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27A Regulation 6 amended (Application for adoption order)

In regulation 6, replace “shall be in form 1 of the Schedule” with “must be in form 1 of Schedule 1”.

28 Regulation 8 amended (Affidavit by applicants)

- (1) In regulation 8(1), replace “At any time before the date of hearing of an application for an adoption order there shall be filed in the court an affidavit by the applicants” with “Applicants for an adoption order must file with their application an affidavit,”.

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- (2) In regulation 8(1), replace paragraphs (aaa) to (aac) with:

(aaa) if the application is made in reliance on **section 3AAA(1)(a)(i) or (ii)** of the Adoption Act 1955, providing evidence of the country in which the applicants and the child ordinarily reside:

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(aab) if the application is made in reliance on **section 3AAA(1)(a)(ii)** of the Adoption Act 1955, providing evidence of the exceptional circumstances that exist, which may include evidence of a familial or genetic link between the applicants and the child stated in the application (for example, birth certificates that establish a familial link or DNA test results that establish a genetic link):

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(aac) if the application is made in reliance on **section 3AAA(1)(b)** of the Adoption Act 1955, providing evidence of the international surrogacy arrangement:

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28A Regulation 9 amended (Consent to adoption)

In regulation 9(1), replace “shall be in form 2 or form 3 of the Schedule” with “must be in form 2 or form 3 of Schedule 1”.

28B Regulation 11 amended (Notice of making of interim order)

In regulation 11, replace “shall send to the applicants a notice in form 4 of the Schedule” with “must send to the applicants a notice in form 4 of Schedule 1”.

28C Regulation 12 amended (Application for issue of adoption order)

In regulation 12, replace “shall be in form 5 of the Schedule” with “must be in form 5 of Schedule 1”. 5

28D Regulation 13 amended (Adoption order)

(1) In regulation 13(1), replace “shall send to the applicants or their solicitor notice of the issue or making thereof in form 6 of the Schedule” with “must send to the applicants or their solicitor notice of the issue or making of the order in form 6 of Schedule 1”. 10

(2) In regulation 13(2), replace “shall be drawn up in form 7 or form 8 of the Schedule” with “must be in form 7 or form 8 of Schedule 1”.

28E Regulation 16 amended (Forms)

In regulation 16, replace “the Schedule” with “Schedule 1”. 15

29 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in **Schedule 4** of this Act as the first schedule to appear after the last regulation of the principal regulations.

30 Schedule amended

(1) Replace the Schedule heading with: 20

Schedule 1
Forms

r 6

(2) In the Schedule, form 1, replace the second paragraph 2A and the following paragraph 2A with: 25

2A We are/I am* ordinarily resident in New Zealand, and the child is ordinarily resident in [*country outside New Zealand*] and we/I* make this application in the following exceptional circumstances: [*specify*].

*Select one

or

2A We are/I am* ordinarily resident in [*country outside New Zealand*], and the child is ordinarily resident in New Zealand and we/I* make this application in the following exceptional circumstances: [*specify*]. 30

*Select one

or

2A This application is made pursuant to an international surrogacy arrangement [details].

Subpart 4—Repeal of Adoption Amendment Act 2025

31 Repeal of Adoption Amendment Act 2025

The Adoption Amendment Act 2025 (2025 No 49) is repealed.

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Schedule 1

New Part 2 inserted into Schedule 1AA of Adoption Act 1955

s 11

Part 2

Provisions relating to Overseas Adoptions Legislation Act 2026

6 Interpretation

In this Part, **commencement date** means the date on which the Overseas Adoptions Legislation Act **2026** comes into force.

7 Adoption application made before commencement date

- (1) **Subclause (2)** applies if an application for an adoption order is made to the court, but not determined, before the commencement date. 10
- (2) Section 3, as in force immediately before the commencement date, continues to apply in respect of the application as if the Overseas Adoptions Legislation Act **2026** had not been enacted.

8 Effect of overseas adoption: New Zealand citizenship status before commencement

- (1) **Subclause (2)** applies to an overseas adoption that— 15
 - (a) took place before the commencement date; and
 - (b) was not subject to the limitation in section 17(3)(a) as in force immediately before the commencement date. 20
- (2) On and after the commencement date, the overseas adoption is not subject to the limitation in section 17(3)(a), as replaced by **section 8(1)** of the Overseas Adoptions Legislation Act **2026**.

9 Effect of overseas adoption: visa application made before commencement date

- (1) **Subclause (2)** applies if, before the commencement date,— 25
 - (a) a person is adopted pursuant to an overseas adoption; and
 - (b) section 17(3), as in force immediately before the commencement date, did not impose a limitation on the person being granted a visa under the Immigration Act 2009; and 30
 - (c) an application for a visa in respect of the person has been made under the Immigration Act 2009 but not determined.
- (2) On and after the commencement date, the visa application is determined as if the Overseas Adoptions Legislation Act **2026** had not been enacted.

Schedule 2

New Part 3 inserted into Schedule 1AA of Citizenship Act 1977

s 16

Part 3

Provisions relating to Overseas Adoptions Legislation Act 2026

5 Interpretation

In this Part, **commencement date** means the date on which the Overseas Adoptions Legislation Act **2026** comes into force.

6 Citizenship by descent continues for persons adopted overseas who acquired status before commencement date

(1) This clause applies if, before the commencement date, a person—

(a) was adopted pursuant to an overseas adoption that was not subject to the limitation in section 17(3)(a) of the Adoption Act 1955 (as then in force); and

(b) was deemed to be a child of a New Zealand citizen under section 3(2)(b) (as then in force); and

(c) had the status of a New Zealand citizen by descent by virtue of section 7(1).

(2) On and after the commencement date, the person continues to be a New Zealand citizen by descent.

(3) **Subclause (2)** applies whether or not before the commencement date an application was made under section 7(2) to register the person's citizenship status.

(4) This clause applies despite **sections 8, 14, and 15** of the Overseas Adoptions Legislation Act **2026**.

7 Citizenship by grant under section 9(1)(b) continues for persons adopted overseas by New Zealand citizen by descent before commencement date

(1) This clause applies if, before the commencement date, a person—

(a) was adopted pursuant to an overseas adoption that was not subject to the limitation in section 17(3)(a) of the Adoption Act 1955 (as then in force); and

(b) was deemed to be a child of a New Zealand citizen under section 3(2)(b) (as then in force); and

(c) did not have the status of a New Zealand citizen by descent by virtue of section 7(1) (because one of the person's adopting parents was not a New Zealand citizen by birth or grant).

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- | | | |
|-----|---|----|
| (2) | A grant of citizenship to the person authorised by the Minister before the commencement date may not be rescinded on and after the commencement date as a consequence of the enactment of the Overseas Adoptions Legislation Act 2026 (and the repeal of section 3(2)(b) by section 14 of the Overseas Adoptions Legislation Act 2026). | 5 |
| (3) | An application for a grant of citizenship under section 9(1)(b) that is made before the commencement date by or on behalf of the person, but not determined by that date, must be dealt with as if the Overseas Adoptions Legislation Act 2026 had not been enacted. | |
| (4) | An application for a grant of citizenship under section 9(1)(b) that is not made before the commencement date by or on behalf of the person may be made on or after the commencement date by or on behalf of the person as if the Overseas Adoptions Legislation Act 2026 had not been enacted. | 10 |

Schedule 3**New Part 2 inserted into Schedule 1AA of Family Court Rules 2002****s 24****Part 2****Provision relating to Overseas Adoptions Legislation Act 2026**

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2 Proceedings affected by Overseas Adoptions Legislation Act 2026

- (1) Amendments made by a provision of the Overseas Adoptions Legislation Act **2026** (except for this clause) apply only to proceedings commenced on or after the commencement of that provision.
- (2) Proceedings commenced before that commencement, and not finally determined (including any rehearing or appeal) before that commencement, continue as if those amendments had not been enacted.

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Schedule 4
New Schedule 1AA inserted into Adoption Regulations 1959

s 29

Schedule 1AA
Transitional, savings, and related provisions

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r 2A

Part 1
Provision relating to Overseas Adoptions Legislation Act 2026

- 1 Proceedings commenced but not completed before commencement of Overseas Adoptions Legislation Act 2026** **10**
- (1) This clause applies in respect of proceedings under the Adoption Act 1955 commenced, but not finally determined (including any rehearing or appeal), before the commencement of the Overseas Adoptions Legislation Act **2026** (the **Act**).
- (2) Regulation 8, as in force immediately before the commencement of the Act, continues to apply to proceedings as if the Act had not been enacted. **15**

Legislative history

7 May 2026
12 May 2026

Introduction (Bill 307–1)
First reading and referral to Justice Committee