

Adoption Amendment Bill

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Child and Family Protection Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- Domestic Violence Amendment Bill (No 2) comprising clauses 1 and 2, and Part 1
 - Care of Children Amendment Bill comprising Part 2
 - This bill comprising Part 3.
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Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

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Hon Simon Power

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Adoption Amendment Act **2010**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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29 Principal Act amended

This **Part** amends the Adoption Act 1955.

30 Purpose of this Part

The purpose of this **Part** is to enable New Zealand to meet its international obligations under Article 3(1)(a)(ii) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography by creating a new offence prohibiting the improper inducement of a consent for the adoption of a child.

31 Offences

- (1) The heading to section 27 is amended by omitting “**Offences**” and substituting “**Summary offences**”.
- (2) Section 27(3) is repealed.

32 New sections 27A to 27D inserted

The following sections are inserted after section 27:

“27A Offence to induce consent

- “(1) Every person commits an offence who induces another person, by fraud, duress, undue influence (by payment or otherwise), or other improper means, to consent to an adoption.

- “(2) Every person who commits an offence under **subsection (1)** is liable on conviction on indictment to imprisonment for a term not exceeding 7 years.

“27B Safety of child where offence committed

- “(1) Where a ~~court~~ Court is satisfied that an offence against section 27 or **27A** has been committed in respect of any child, the ~~court~~ Court may order the child to be removed to a place of safety until— 5
- “(a) the child can be restored to his or her parent or guardian; or
- “(b) other arrangements can be made for the child.
- “(2) **Subsection (1)** applies whether or not any person has been convicted of the offence. 10

“27C Extraterritorial jurisdiction in respect of offence under section 27A as required by Optional Protocol

- “(1) In this section, **Optional Protocol** means the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, adopted by the General Assembly of the United Nations at New York on 25 May 2000. 15
- “(2) Even if the acts alleged to constitute an offence under **section 27A** occurred wholly outside New Zealand, proceedings may be brought in respect of that offence— 20
- “(a) if the person to be charged—
- “(i) is a New Zealand citizen; or
- “(ii) is ordinarily resident in New Zealand; or
- “(iii) has been found in New Zealand and has not been extradited; or 25
- “(iv) is a body corporate, or a corporation sole, incorporated under the law of New Zealand; or
- “(b) if the person whose consent to an adoption has been induced—
- “(i) is a New Zealand citizen; or 30
- “(ii) is ordinarily resident in New Zealand.
- “(3) Nothing in this section limits the application of **section 27A** in respect of—
- “(a) acts that occurred wholly within New Zealand; or
- “(b) the application of section 7 of the Crimes Act 1961 to the occurrence in New Zealand of— 35
- “(i) an act forming part of an offence; or

- “(ii) an event necessary to the completion of an offence; or
- “(c) the application of section 8 of the Crimes Act 1961; or
- “(d) the application of section 8A of the Crimes Act 1961.

“27D Attorney-General’s consent required where jurisdiction claimed under section 27C 5

- “(1) No proceedings for an offence against **section 27A** may be brought in a New Zealand court in respect of any person without the consent of the Attorney-General if jurisdiction over the person is claimed by virtue of **section 27C**. 10
- “(2) However, a person alleged to have committed an offence against **section 27A** may be arrested, or a warrant for the person’s arrest may be issued and executed, and the person may be remanded in custody or on bail, even though the Attorney-General’s consent under **subsection (1)** has not been obtained.” 15

33 Consequential amendment to Summary Proceedings Act 1957

- (1) This section amends the Summary Proceedings Act 1957.
- (2) Part 2 of Schedule 1 is amended by inserting the following item in its appropriate alphabetical order: 20

Adoption Act 1955 **27A** Inducing consent to an adoption

34 Consequential amendments to Extradition Act 1999

- (1) This section amends the Extradition Act 1999.
 - (2) Section 101C(1) is amended by adding “; and” and also by adding the following paragraph: 25
- “(d) every offence against **section 27A** of the Adoption Act 1955 is deemed to be an offence described in any extradition treaty concluded before the commencement of **section 32 of the Child and Family Protection Act 2009** and for the time being in force between New Zealand and any foreign country that is a party to the protocol referred to in subsection (5).” 30

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- (3) Section 101C(2) is amended by omitting “of section 10 of the Crimes Amendment Act 2005” and substituting “referred to in subsection (1)(a), (b), (c), or **(d)**, as the case requires”.

35 Consequential amendment to Mutual Assistance in Criminal Matters Act 1992

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- (1) This section amends the Mutual Assistance in Criminal Matters Act 1992.
- (2) Item 29 of the Schedule is amended by inserting the following item in the second column above the first row:

An offence against the following section of the Adoption Act 1955:

<i>section</i>	<i>subject matter</i>
27A	Offence to induce consent

Legislative history

10 August 2011

Divided from Child and Family Protection Bill (Bill 72–2) by committee of the whole House as Bill 72–3C
