

Mr Hunt

ADOPTION AMENDMENT

ANALYSIS

Title
1. Short Title

2. Inspection of adoption records
3. Applications for inspection of records

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
5 of the same, as follows:

1. **Short Title**—This Act may be cited as the Adoption Amendment Act 1978, and shall be read together with and deemed part of the Adoption Act 1955 (hereinafter referred to as the principal Act).

10 **2. Inspection of adoption records**—(1) Section 23 of the principal Act is hereby amended by adding the following further proviso to subsection (1):

15 “Provided further that the adoption records shall be open to inspection by a Social Worker in the course of preparing a report under section 23A of this Act.”

(2) Section 23 of the principal Act is hereby further amended by inserting, after paragraph (b) of subsection (2), the following paragraph:

“(bb) In accordance with the provisions of section 23A of this Act, in favour of an applicant to whom paragraphs (a), (b), or (c) of subsection (1) of that section applies in respect of that adoption order; or”.

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3. Applications for inspection of records—The principal Act is hereby further amended by inserting, after section 23, the following section:

“23A. (1) An application under paragraph (bb) of section 23 (2) of this Act for an order for the inspection 10 of adoption records may be made to the Court or the Supreme Court by any of the following:

“(a) An adoptive parent;

“(b) Any person whose consent to the making of the interim order or adoption order was required 15 under section 7 of this Act (whether or not his consent to such order was dispensed with by the Court under section 8 of this Act);

“(c) Any person of or over the age of 18 years in respect of whom the adoption order has at any time 20 been in force,

and, on any such application being made, it shall be dealt with in accordance with the following provisions of this section.

“(2) On any such application being made, the Court, or 25 the Supreme Court, may make an order under paragraph (bb) of section 23 (2) of this Act for the inspection of the adoption records by the applicant if it is satisfied that, having regard to all the circumstances of the case, no serious harm or injury is likely to result to any other person 30 (whether or not a person to whom paragraph (a), (b) or (c) of subsection (1) of this section applies in respect of that adoption order).

“(3) Any order for the inspection of the adoption records made in accordance with the provisions of this section may 35 be limited as to the part or parts of such records which are to be made available for inspection by the applicant.

“(4) Before the Court or the Supreme Court makes an order for the inspection of adoption records under paragraph (bb) of section 23 (2) of this Act it shall consider any report furnished in accordance with the provisions of this section by a Social Worker and at any hearing of the application the Social Worker shall be entitled to appear, cross-examine, call evidence, and address the Court or the Supreme Court.

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“(5) For the purposes of enabling the report mentioned in subsection (4) of this section to be furnished to the Court or the Supreme Court, the Registrar shall provide a Social Worker with a copy of each application for inspection of the adoption records made to the Court or the Supreme Court under paragraph (bb) of section 23 (2) of this Act.

“(6) Reasonable time shall be allowed to enable the Social Worker to furnish a report in accordance with the provisions of this section, and the Registrar shall give the Social Worker reasonable notice of the hearing of the application.

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“(7) Where it appears to the Court or the Supreme Court, after considering a report furnished by a Social Worker in accordance with subsection (4) of this section, that all persons who may be affected by the outcome of the application agree to the inspection by the applicant of the adoption records or a part or parts of such records (and that the applicant makes no claim to inspect any other part or parts of the adoption records), it shall without any further hearing make an order for the inspection of such records (or a part or parts of such records as the case may be) by the applicant.

“(8) In any case to which subsection (7) of this section does not apply, the Court or the Supreme Court shall appoint a time and place for the further hearing or hearings of the application, and may direct that any person who may be affected by the outcome of the application shall be given notice of the time and place of the further hearing or hearings appointed by it, and such a person shall be entitled to appear in person or be represented before it in order to make submissions on the application:

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Provided that the Court or the Supreme Court may direct in any case that a person shall not be entitled to appear in person before it at a particular hearing if in its opinion that person's attendance at that hearing might prejudice the outcome of the application.

“(9) The Court or the Supreme Court may appoint any barrister or solicitor of the Supreme Court to represent or assist a person (including the applicant) at any hearing or hearings on an application for inspection of adoption records made under paragraph (bb) of section 23 (2) of this Act, and any barrister or solicitor so appointed may cross-examine, call evidence, and address it. 5

“(10) The fees and expenses of any such barrister or solicitor shall be paid out of the Consolidated Account from money appropriated by Parliament: 10

Provided that if the Court or the Supreme Court thinks proper, it may order any party to refund to the Crown such amount as the Court or the Supreme Court specifies in respect of those fees and expenses, and if it does so that amount shall be recoverable as a debt due to the Crown.” 15