

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

*House of Representatives, 26 June 1985.*

**Words underlined in bold have been inserted in substitution for the masculine personal and possessive pronouns (he, him, his).**

**With the exception of those pronouns, words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.**

*Fran Wilde*

## ADULT ADOPTION INFORMATION

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### ANALYSIS

Title	9. Access by adult adopted persons to identifying information
1. Short Title and commencement	10. Departmental assistance in approaching parent or child
2. Interpretation	11. Access to information on medical grounds
<i>Access to Information</i>	
3. Birth parent may restrict access to identifying information	<i>Approved Persons and Organisations</i>
4. Adult adopted person may apply for original birth certificate	12. Minister may approve persons and organisations for purposes of Act
5. Certificates for persons adopted before commencement of Act	<i>General</i>
6. Certificates for persons adopted after commencement of Act	13. Regulations
7. Adopted person may register desire not to have contact with birth parents	14. Act not affect disclosure of non-identifying information
8. Access by birth parents to identifying information	15. Amendment to Adoption Act 1955
	23. Inspection of adoption records

### A BILL INTITULED

**An Act to provide for greater access to information relating to adoptions and to the parties to adoptions by adult adopted persons and their birth parents, and for other related matters**

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

No. 21—2

*Price 95c*

**1. Short Title and commencement**—(1) This Act may be cited as the Adult Adoption Information Act **(1984) 1985**.

(2) **Sections 4 to 6, 8, and 9** of this Act shall come into force on the 1st day of **(August 1985) September 1986**.

(3) Subject to **subsection (2)** of this section, this Act shall come into force on the 1st day of **(February 1985) March 1986**. 5

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Adopted person” means a person in respect of whom an adoption order has at any time been made; and 10  
“adopted” has a corresponding meaning:

“Adoption order” means an adoption order made under the Adoption Act 1955 or any corresponding former enactment; and includes an instrument details of which have been registered under section 21A of the Births 15  
and Deaths Registration Act 1951:

“Adoptive parent”, in relation to any other person, means a person who has at any time, either alone or pursuant to an application made jointly with a spouse, adopted that other person under an adoption order; but no 20  
person shall be *(deemed to be)* an adoptive parent by reason only of—

(a) Having consented to an adoption by a spouse;

or

(b) Having become the spouse of an adoptive parent 25  
after the adoption concerned:

*New*

“Adult” as a noun means a person who has attained the age of 20 years; and as an adjective it has a corresponding meaning: 30

“Approved organisation” means an organisation for the time being approved under **section 12 (1)** of this Act:

“Approved person” means a person for the time being approved under **section 12 (1)** of this Act; and includes a person whose name is for the time being notified 35  
under **section 12 (2)** of this Act:

“Birth parent”, in relation to any other person, means a person who is that other person’s biological mother or father:

“Department” means the Department of Social Welfare: 40

“Director-General” means the Director-General of Social Welfare:

- “Identifying information”, in relation to any person, means that person’s name or address; and includes any information that is likely to enable any other person to ascertain that person’s name or address:
- 5 “Original birth certificate”, in relation to any person, means a certificate under section 38 of the Births and Deaths Registration Act 1951 of the original entry of that person’s birth, endorsed on its face with the words ‘ISSUED FOR THE PURPOSES OF THE ADULT ADOPTION INFORMATION ACT (1984) 1985’; and includes any such certificate from which there have been omitted, in accordance with this Act, any details relating to either or both of that person’s birth parents:
- 10 “Registrar-General” means the Registrar-General appointed under the Births and Deaths Registration Act 1951:
- 15 “Social worker” means a social worker appointed or deemed to be appointed in accordance with section 8 of the Department of Social Welfare Act 1971; and, in relation to any matter undertaken by one social worker, includes any other social worker dealing with that matter.
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*Access to Information*

- 3. Birth parent may restrict access to identifying information**—(1) Either birth parent of a person adopted before the 1st day of (February 1985) March 1986 may at any time request the Registrar-General to have the original entry of the birth of that person endorsed to the effect that that person is not to have access to identifying information relating to the (*applicant*) the person making a request.
- 25 30
- (2) The following provisions shall apply to every request under **subsection (1)** of this section:
- (a) The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations:
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- (b) That person shall indicate to the Registrar-General whether or not that person desires counselling;
- (c) If that person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:
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(d) If that person—

(i) Indicates that that person does not desire counselling; or

(ii) Under **paragraph (c)** of this subsection requests the Registrar-General to proceed with the original request,—

the Registrar-General shall cause the original entry of the birth of the adopted person concerned to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed.

(3) The fact that there is upon the original entry of the birth of any person one unexpired endorsement under **subsection (2)** of this section relating to any person shall not prevent a further endorsement under that subsection relating to that person.

(4) Subject to **subsection (5)** of this section, every endorsement under **subsection (2)** of this section shall continue in force until the expiration of 10 years from the date of its making, and shall then expire.

(5) A birth parent of an adopted person may at any time request the Registrar-General to have removed from the original entry of that person's birth all endorsements under **subsection (2)** of this section relating to that parent; and in that case the Registrar-General shall cause that entry to be noted accordingly, and those endorsements shall then expire.

**4. Adult adopted person may apply for original birth certificate**—(1) Any adult (*who is or believes himself to be adopted*) may make a written application to the Registrar-General for an original birth certificate in relation to the applicant; and in that case the following provisions shall apply:

(a) Where it does not appear from the records of the Registrar-General that the applicant is adopted, the Registrar-General shall so notify the applicant in writing:

(b) Subject to **subsection (2)** of this section, where it appears from the records of the Registrar-General that the applicant was adopted before the 1st day of (*February 1985*) **March 1986**, and that—

(i) Details relating to only one of the applicant's birth parents appear in the original entry of the applicant's birth, and there is on that entry any unexpired endorsement under **section 3 (2)** of this Act relating to that parent; or

- (ii) Details relating to both of the applicant's birth parents appear in the original entry of the applicant's birth, and there are on that entry unexpired endorsements under **section 3 (2)** of this Act relating to each of those parents,—
- 5 **section 5 (1)** of this Act shall apply to the applicant:
- (c) Where it appears from the records of the Registrar-General that the applicant was adopted before the 1st day of ~~(February 1985)~~ March 1986, and that—
- 10 (i) Details relating to both of the applicant's birth parents appear in the original entry of the applicant's birth, but there are on that entry unexpired endorsements under **section 3 (2)** of this Act relating to only one of them; or
- 15 (ii) There are no unexpired endorsements under **section 3 (2)** of this Act on that entry,—
- section 5 (2)** of this Act shall apply to the applicant:
- (d) Where it appears from the records of the Registrar-General that the applicant was adopted after the ~~(31st day of January 1985)~~ 28th day of February 1986, **section**
- 20 **6** of this Act shall apply to the applicant.
- (2) Where—
- (a) There is on the original entry of the birth of an adopted person any unexpired endorsement under **section 3 (2)**
- 25 of this Act relating to a birth parent of that person; and
- (b) The Registrar-General is satisfied that that parent is dead,—
- paragraphs (b) and (c) of subsection (1)** of this section shall apply to
- 30 any application under that subsection as if that endorsement had expired.

**5. Certificates for persons adopted before commencement of Act**—(1) The Registrar-General shall inform every applicant to whom this subsection (*applies*) is

35 applied by **section 4 (1) (b)** of this Act of the existence, effect, and date of expiry of the endorsements concerned, and, notwithstanding section 21 (7) of the Births and Deaths Registration Act 1951, shall send the applicant an original birth certificate from which all details relating to the applicant's birth

40 parents have been omitted.

(2) Notwithstanding section 21 (7) of the Births and Deaths Registration Act 1951, but subject to **subsection (3)** of this section, the following provisions shall apply to every application under **section 4 (1)** of this Act made by an applicant to whom this

45 subsection (*applies*) is applied by section 4 (1) (c) of this Act:

- (a) The Registrar-General shall notify the applicant in writing,—
- (i) If the applicant lives within New Zealand, of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and
  - (ii) That except where the applicant lives outside New Zealand, an original birth certificate will not be given to the applicant until the applicant has received counselling:
- (b) If the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to—
- (i) The appropriate office of the Department; or
  - (ii) The approved person or organisation specified by the applicant,—
- as the case requires:
- (c) The person or organisation to whom or to which an original birth certificate is sent under **paragraph (b)** of this subsection shall release it to the applicant after the applicant has received counselling:
- (d) If it appears to the Registrar-General that the applicant is permanently resident outside New Zealand, the Registrar-General shall send the applicant an original birth certificate and the address of the Director-General.
- (3) There shall be omitted from every original birth certificate sent under **subsection (2)** of this section all details relating to any birth parent of the applicant concerned if—
- (a) There is on the original entry of the applicant's birth an unexpired endorsement under **section 3 (2)** of this Act relating to that parent; and
  - (b) The Registrar-General is not satisfied that that parent is dead.

**6. Certificates for persons adopted after commencement of Act**—Notwithstanding section 21 (7) of the Births and Deaths Registration Act 1951, the following provisions shall apply to every application under **section 4 (1)** of this Act by an applicant to whom this section (*applies*) is applied by section 4 (1) (d) of this Act:

- (a) The Registrar-General shall notify the applicant in writing—

(i) Of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and

5 (ii) That if within 28 days the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, an original birth certificate will be sent to the appropriate office of the Department or that person or organisation; and

10 (iii) That if the applicant does not desire counselling, or fails within 28 days to inform the Registrar-General that the applicant does desire counselling, an original birth certificate will thereafter be held on the applicant's behalf:

15 (b) If the applicant—

(i) Notifies the Registrar-General in writing that the applicant does not desire counselling; or

20 (ii) Has not, within the 28 days following the dispatch to the applicant of the notice under **paragraph (a)** of this section, notified the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation,—

25 the Registrar-General shall forthwith notify the applicant in writing that an original birth certificate is held on the applicant's behalf:

30 (c) If the applicant is notified under **paragraph (b)** of this section that an original birth certificate is held on the applicant's behalf, and thereafter notifies the Registrar-General in writing that the applicant wishes it sent to the applicant, the Registrar-General shall send it to the applicant:

35 (d) If, within the 28 days following the dispatch to the applicant of the notice under **paragraph (a)** of this section, the applicant has notified the Registrar-General that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to—

40 (i) The appropriate office of the Department; or

(ii) The approved person or organisation specified by the applicant,—

as the case requires; and the applicant shall be entitled to uplift it at any reasonable time.

**7. Adopted person may register desire not to have contact with birth parents**—(1) An adopted person who has attained the age of 19 years may at any time request the Registrar-General to have the original entry of that person's birth endorsed to the effect that that person does not desire any contact with a specified birth parent, or with either of that person's birth parents. 5

(2) The following provisions shall apply to every request under **subsection (1)** of this section:

(a) The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations: 10

(b) That person shall indicate to the Registrar-General whether or not that person desires counselling: 15

(c) If that person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:

(d) If that person— 20

(i) Indicates that that person does not desire counselling; or

(ii) Under **paragraph (c)** of this subsection requests the Registrar-General to proceed with the original request— 25

the Registrar-General shall cause the original entry of that person's birth to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed.

(3) The fact that there is upon the original entry of a person's birth one unexpired endorsement under **subsection (2)** of this section relating to a parent shall not prevent a further endorsement under that subsection relating to that parent. 30

(4) Subject to **subsection (5)** of this section, every endorsement under **subsection (2)** of this section shall continue in force until the expiration of 10 years from the date of its making, and shall then expire. 35

(5) Any person may at any time request the Registrar-General to have removed from the original entry of that person's birth any endorsements under **subsection (2)** of this section; and in that case the Registrar-General shall cause that entry to be noted accordingly, and those endorsements shall then expire. 40



**8. Access by birth parents to identifying information—**

(1) Any person may make a written application to the Director-General for identifying information relating to an adult adopted person whose birth parent the applicant is.

5 (2) Where the Director-General is satisfied that an applicant under **subsection (1)** of this section is a birth parent of the adult adopted person to whom the information sought relates, the following provisions shall apply:

10 (a) Where the Director-General is satisfied that the adopted person concerned is dead, the Director-General shall so inform the applicant; and the Director-General may disclose to the applicant such information as the Director-General thinks fit relating to that person, that person's circumstances at the time of that person's death, and the circumstances of that person's death:

15 (b) Where the Director-General is not satisfied that the adopted person concerned is dead, the Director-General shall enquire of the Registrar-General if there is on the original entry of the birth of that person any unexpired endorsement under **section 7 (2)** of this Act relating to the applicant; and in that case the Registrar-General shall inform the Director-General whether or not there is such an entry and, if so, when it (or if more than one the most recent of them) will expire:

20 (c) Where the Registrar-General informs the Director-General that there is such an endorsement on that entry, the Director-General shall give the applicant the information given to the Director-General by the Registrar-General under **paragraph (b)** of this subsection, and shall inform the applicant of the effect of the endorsement concerned:

25 (d) Where the Registrar-General informs the Director-General that there is no such endorsement on that entry—

30 (i) If the Director-General does not know the name and address of the adopted person concerned but, in the Director-General's opinion, it is probable that a social worker can ascertain identifying information relating to that person without undue effort, the Director-General shall cause a social worker to attempt to do so:

35 (ii) If the Director-General knows the name and address of the adopted person concerned and, in the Director-General's opinion, it would be possible for a social worker to contact that person without undue  
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effort, the Director-General shall cause a social worker to attempt to do so and to ascertain whether or not that person is willing to have that person's name and address communicated to the applicant:

(iii) The name and address of the adopted person 5 concerned shall not be communicated to the applicant unless that person has indicated to that social worker that that person is willing for them so to be communicated:

(iv) If the adopted person concerned has indicated 10 to that social worker that that person is willing to have that person's name and address communicated to the applicant, the Director-General shall communicate them to the applicant and inform both the adopted person and the applicant of the effect 15 of **section 10** of this Act.

**9. Access by adult adopted persons to identifying information**—(1) Any adult adopted person may make a written application to the Director-General for identifying information relating to either or both of that person's birth 20 parents.

(2) Every application under **subsection (1)** of this section shall be accompanied by an original birth certificate relating to the applicant.

(3) The Director-General shall disclose to an applicant under 25 **subsection (1)** of this section all available identifying information relating to any birth parent concerned, and inform that person of the effect of **section 10** of this Act, if, and only if,—

(a) Details of that parent appear in the original birth certificate accompanying the application; or 30

(b) The Director-General is satisfied that that parent is dead.

(4) Where—

(a) The Director-General is required by **subsection (3)** of this section to disclose to an applicant under **subsection (1)** of this section identifying information relating to a 35 birth parent; and

(b) The Director-General does not know the name and address of that parent; and

(c) In the opinion of the Director-General, it is probable that a social worker can ascertain identifying information 40 relating to that parent without undue effort,—

the Director-General shall cause a social worker to attempt to do so; and **subsection (3)** of this section shall apply to all identifying information obtained as a result.

**10. Departmental assistance in approaching parent or child**—(1) An adult adopted person who has ascertained the name and address of a birth parent may request any social worker to approach that parent on that person's behalf.

5 (2) Any person who has ascertained the name and address of an adult adopted person whose birth parent that person is may request any social worker to approach that adopted person on that person's behalf.

10 (3) Any adoptive parent of an adopted person who has ascertained the name and address of a birth parent of that adopted person may request any social worker to approach that parent on that adoptive parent's behalf.

(4) A social worker to whom a request is made under this section may decline that request.

15 (5) Where a social worker accepts a request made under this section, that social worker shall approach the person concerned and ask if that person is willing to meet the person who made the request, and if so under what circumstances; and—

20 (a) If the person concerned is unwilling to meet the person who made the request, the social worker shall so inform the person who made the request; and

(b) If the person concerned is willing to meet the person who made the request, the social worker shall inform the person who made the request of the circumstances under which the person concerned is willing to do so.

**11. Access to information on medical grounds**—(1) For the purposes of this section,—

30 “Doctor” means a registered medical practitioner:

“Medical” includes psychiatric:

“Relative”, in relation to any other person, means a person who is by blood the grandparent, parent, child, grandchild, or (whether of the whole or half blood) brother, sister, or cousin, of that other person:

35 “Unknown relative”, in relation to any person, means a relative whose name and address are unknown to that person by virtue of the confidentiality attendant upon the adoption of that person, that relative, or some other person who is a relative of them both.

40 (2) A doctor who is—

(a) Responsible for the medical treatment and advice of any patient; and

(b) Satisfied that it is necessary or desirable, for the purpose of providing treatment of or advice relating to any medical condition of that patient, or for the purpose of providing genetic counselling for or in relation to that patient, to obtain information about the medical or genetic history of an unknown relative,—  
 may give the Director-General notice in writing to that effect, specifying the information concerned. 5

(3) Where, in the opinion of any doctor, any information obtained as a result of that doctor's dealings with any patient is likely to be relevant to the provision of treatment of or advice relating to any medical condition or potential medical condition of any unknown relative, or the provision of genetic counselling for or in relation to any unknown relative, that doctor may with the consent of that patient (or, where that patient is not an adult, of that patient's guardian) give the Director-General notice in writing to that effect, together with a separate statement of that information. 10 15

(4) A social worker may produce a notice under **subsection (2) or subsection (3)** of this section— 20

(a) To the Registrar-General; and in that case, notwithstanding section 21 (7) of the Births and Deaths Registration Act 1951, the social worker shall be entitled to obtain an original birth certificate of the adopted person concerned: 25

(b) To the Registrar of the Court where the Court file relating to the adoption concerned is held; and in that case the social worker shall be entitled to search, inspect, and take a copy of any document on the file concerned. 30

(5) A social worker may disclose to the doctor concerned (in the case of a notice under **subsection (2)** of this section) or the doctor of any unknown relative (in the case of a notice under **subsection (3)** of this section) any information whatsoever (not being identifying information) relevant to the medical or genetic history of the patient or relative concerned. 35

(6) No doctor shall disclose to any person any identifying information obtained by the use of information obtained under this section.

*Approved Persons and Organisations* 40

**12. Minister may approve persons and organisations for purposes of Act—**(1) The Minister of Social Welfare may from time to time, by notice in the *Gazette*, approve any person or organisation (whether incorporated or unincorporated) to undertake counselling under this Act. 45

(2) Any approved organisation may from time to time notify the Director-General of the name of any member or employee authorised to act on behalf of that organisation; and may at any time notify the Director-General that the authority of that member or employee has been withdrawn.

*General*

**13. Regulations**—(1) The Governor-General may from time to time, by Order in Council, make regulations for either or both of the following purposes:

- 10 (a) Prescribing fees payable under this Act;  
(b) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and its due administration.

15 (2) Where the Registrar-General is empowered by this Act to do any act for which a fee is payable, the Registrar-General may refuse to do the act until the fee is paid.

(3) Notwithstanding the provisions of any regulations under this Act, the Registrar-General may dispense with the payment of any fee payable under this Act.

20 **14. Act not to affect disclosure of non-identifying information**—Nothing in this Act shall affect the disclosure to any person of any information relating to any other person that is not, in relation to that other person, identifying information.

25 **15. Amendment to Adoption Act 1955**—The Adoption Act 1955 is hereby amended by repealing section 23, and substituting the following section:

30 “**23. Inspection of adoption records**—(1) An adoption order shall be open to inspection by any person who requires to inspect it for some purpose in connection with the administration of an estate or trust of which that person is executor, administrator, or trustee.

35 “(2) The (*Court file relating to an adoption*) adoption records shall be open to inspection by any Registrar of Marriages or marriage celebrant under the Marriage Act 1955 for the purpose of investigating forbidden degrees of relationship under that Act.

40 “(3) The (*Court file relating to an adoption*) adoption records shall not be available for production or open to inspection except—

- “(a) To the extent authorised by **subsection (1) or subsection (2)** of this section or by **section 11 (4) (b)** of the Adult Adoption Information Act **(1984) 1985**; or
- “(b) On the order of a Family Court, a District Court, or the High Court, made— 5
- “(i) For the purposes of a prosecution for making a false statement; or
- “(ii) In the event of any question as to the validity or effect of any interim order or adoption order; or
- “(iii) On any other special ground.” 10