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*Adoption of Children (Amendment).*


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**SCHEDULE 3—continued.**
**MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
continued.**

- (b) a person referred to in subsection (1) (b) if that person is—
- (i) an applicant for the order for the adoption of the child; or
  - (ii) a person with whom the child resides only as a patient or inmate of a hospital of which that person is in charge or a person who has the care or custody of the child only as the person in charge of a hospital.

(7) (a) Section 23—

Omit “The”, insert instead “Except as provided by subsection (2), the”.

(b) Section 23 (2)—

At the end of section 23, insert :—

(2) The Tribunal shall, on application by a person—

- (a) who is the father of a child referred to in section 26 (3);
- (b) who is not given a notice referred to in section 31A (4); and

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*Adoption of Children (Amendment).*


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SCHEDULE 3—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

- (c) in respect of whom the Tribunal has not, under section 31B, dispensed with the giving of a notice referred to in section 31A (4),

join the person as a party to the proceedings for an adoption order in respect of the child for the purpose of opposing the application for the order.

## (8) Section 26 (3A)—

After section 26 (3), insert :—

(3A) A person who is the putative father of a child referred to in subsection (3) and who—

- (a) does not have the custody of the child under a court order; or
- (b) is not or is not deemed to be the guardian of the child, to the exclusion of, or in addition to, the mother or other guardian, under a law of the Commonwealth or of another State or a Territory of the Commonwealth,

is not a guardian of the child for the purposes of that subsection.

## (9) Section 30—

Omit “For”, insert instead “Notwithstanding any other provision of this Act, for”.

## (10) Section 31 (1) (d)—

Omit “on the date of the instrument of consent,”, insert instead “at the time the instrument of consent was signed,”.

*Adoption of Children (Amendment).*SCHEDULE 3—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

## (11) Sections 31A–31E—

After section 31, insert :—

31A. (1) Where, under section 34 (1), the Director becomes the guardian of a child referred to in section 26 (3)—

(a) except as provided by paragraph (b)—the Director; or

(b) in any case where negotiations are being conducted or arrangements are being made by a private adoption agency with a view to the adoption of the child—the principal officer of the private adoption agency,

shall make all such inquiries as, in the opinion of the Director or the principal officer, as the case may be, having regard to all such information as may have been furnished to him by a person giving a consent to the adoption of the child or any other person, are reasonably necessary in order to ascertain whether any person, as at the date on which the Director so becomes the guardian of the child—

(c) is presumed, pursuant to section 11, 12 or 13 of the Children (Equality of Status) Act, 1976, to be the father of the child;

(d) is a party to proceedings as a consequence of which he may, pursuant to section 12 or 13 of the Children (Equality of Status) Act, 1976, be presumed to be the father of the child; or

(e) is otherwise registered as the father of the child under the Registration of Births, Deaths and Marriages Act, 1973.

Notice of  
consents to  
certain  
putative  
fathers.

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*Adoption of Children (Amendment).*

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SCHEDULE 3—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(2) Where, in relation to a child referred to in section 26 (3)—

(a) who—

- (i) has been admitted to State control; and
- (ii) is a ward within the meaning of the Child Welfare Act, 1939; or

(b) who—

- (i) has been committed to the care of the Minister to be dealt with as a ward admitted to State control; and
- (ii) has not been absolutely discharged from the supervision and control of the Minister under the Child Welfare Act, 1939,

a consent to the adoption of the child is given by the mother of the child, the Director shall make the inquiries referred to in subsection (1) in order to ascertain whether any person, as at the date on which the consent is given, is, in relation to the child, a person to whom paragraph (c), (d) or (e) of subsection (1) applies.

(3) Except as provided by subsection (1) or (2), the applicant or applicants for an adoption order in respect of a child referred to in section 26 (3) shall make such inquiries as, in the opinion of the Tribunal, are reasonably necessary in order to ascertain whether any person, as at the date on which the application for the adoption order was made is, in relation to the child, a person to whom paragraph (c), (d) or (e) of subsection (1) applies.

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*Adoption of Children (Amendment).*


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 SCHEDULE 3—*continued.*

 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(4) Where, as a consequence of making inquiries pursuant to subsection (1), (2) or (3), or otherwise, the Director, the principal officer of a private adoption agency or an applicant or the applicants for an adoption order ascertains or ascertain that there is, in relation to the child, a person to whom paragraph (c), (d) or (e) of subsection (1) applies, the Director, that principal officer, the applicant or those applicants, as the case may be, shall—

- (a) in circumstances to which subsection (1) or (2) applies—give the person notice of each consent given by an appropriate person referred to in section 26 (3) in relation to the child; or
- (b) in circumstances to which subsection (3) applies—give the person notice that an application has been made for an adoption order in respect of the child.

(5) Nothing in subsection (4) requires the giving of a notice of a consent referred to in that subsection to the person by whom the consent was given.

**Dispensing  
with  
notice.**

**31B.** The Tribunal, on application by the Director, the principal officer of a private adoption agency or an applicant or the applicants for an adoption order in respect of a child, may, by order, dispense with the giving of a notice referred to in section 31A (4) to a person where it appears to the Tribunal that—

- (a) the Director, the principal officer of the private adoption agency or the applicant or the applicants, as the case may require, is unable to locate the person;

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*Adoption of Children (Amendment).*


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SCHEDULE 3—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

- (b) the person is in such a physical or mental condition as not to be capable of properly considering the question of whether he should file a notice under section 31C (1); or
- (c) there are circumstances, other than those referred to in paragraphs (a) and (b), in which, by dispensing with the giving of the notice, the interests and welfare of the child will be promoted.

31C. (1) A person to whom a notice referred to in section 31A (4) is given may, within a period of 14 days after the date of service of the notice, file, with the Registrar, an application for an order with respect to the care, custody and guardianship of the child in relation to whom the notice is given. Application for custody, etc., by putative father.

(2) The Tribunal may determine an application under subsection (1) in relation to a child at any time that is not later than the determination of any application for an order for the adoption of the child.

(3) In determining an application under subsection (1), the Tribunal may join any person it thinks fit as a party to the application.

(4) The Tribunal may determine an application under subsection (1) in relation to a child by making such order, or such interim order, with respect to the care, custody or guardianship of the child as it thinks fit.

(5) Where the Tribunal determines an application under subsection (1) by making an order with respect to the guardianship of a child, the guardianship of any person before the date on which the order takes effect shall, on that date, cease.

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*Adoption of Children (Amendment).*


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**SCHEDULE 3—*continued.***
**MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.***

Con-  
sequence  
of failure  
to make  
application  
for custody,  
etc.

**31D. (1) Where—**

(a) a person to whom, in relation to a child, paragraph (c), (d) or (e) of section 31A (1) applies—

(i) is given a notice referred to in section 31A (4); and

(ii) does not, within a period of 14 days after the date of service of the notice, file, with the Registrar, an application for an order with respect to the care, custody and guardianship of the child in relation to whom the notice is given; or

(b) the Tribunal, under section 31B, dispenses with the giving of a notice referred to in section 31A (4) to a person to whom, in relation to a child, paragraph (c), (d) or (e) of section 31A (1) applies,

the person may not, at any time before the making of an adoption order in respect of the child, do any thing, under this or any other law, that is inconsistent with the making of such an order.

**(2) A person—**

(a) who is the father of a child referred to in section 26 (3);

(b) who is not given a notice referred to in section 31A (4); and

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*Adoption of Children (Amendment).*


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**SCHEDULE 3—*continued.***
**MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.***

- (c) in respect of whom the Tribunal has not, under section 31B, dispensed with the giving of a notice referred to in section 31A (4),

may not, except in pursuance of section 23 (2), at any time before the making of an adoption order in respect of the child, do any thing, under this or any other law, that is inconsistent with the making of such an order.

31E. Subject to this Division, the Tribunal shall not make an order for the adoption of a child referred to in section 26 (3) unless it is satisfied that any notice which may be required to be given under section 31A has been given or dispensed with by an order under section 31B.

Making  
of certain  
adoption  
orders.

(12) (a) Section 32 (1) (d)—

Omit “or” where thirdly occurring.

(b) Section 32 (1) (e)–(h)—

Omit section 32 (1) (e), insert instead :—

- (e) the child is in the care of a foster parent or foster parents, the child has established a stable relationship with that person or those persons and the interests and welfare of the child will be promoted by the child’s remaining in the care of that person or those persons;
- (f) the child is in the care of a person or persons other than a parent, relative or foster parent and the interests and welfare of the child will be promoted if negotiations can be conducted and arrangements made with a view to the adoption of the child;



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*Adoption of Children (Amendment).*


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 SCHEDULE 3—*continued.*

 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

- (g) there are circumstances, other than those referred to in paragraphs (a)–(f), in which, by dispensing with the consent, the interests and welfare of the child will be promoted; or
  - (h) a notice of intention to seek an order dispensing with the consent has been served personally on that person and that person has not, within 14 days after the date of service of the notice, filed, with the Registrar, a notice of intention to oppose the making of the order.
- (c) Section 32 (1A) (c)—
- Omit the paragraph, insert instead :—
- (c) where an application has been made to the Tribunal for the adoption of the child by the mother, the father or a relative of the child (whether alone or jointly with another person), the applicant or applicants.
- (d) Section 32 (5) (a) (ii)—
- Omit “or” where secondly occurring.
- (e) Section 32 (5) (a) (iii), (iv)—
- Omit section 32 (5) (a) (iii), insert instead :—
- (iii) in relation to a person referred to in subsection (1) (h); or
  - (iv) where the Tribunal considers that in the particular circumstances of the case it is desirable to make an order under subsection (1) without a notice referred to in this paragraph having been given or sent as so referred to,

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*Adoption of Children (Amendment).*

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SCHEDULE 3—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

## (13) Section 35 (1) (d)—

Omit “not being”, insert instead “including”.

## (14) (a) Section 38 (1)—

Omit “subsection (2)”, insert instead “subsections (2) and (2A)”.

## (b) Section 38 (2A)—

After section 38 (2), insert :—

(2A) An approval of a change in the forename or forenames of a child who has attained the age of 12 years shall not be given by the Tribunal unless the child has, in a consent given under section 33, consented to the change or, where the child has not attained the age of 18 years, the Tribunal is satisfied that there are special reasons, related to the welfare and interests of the child, why the change should be made notwithstanding that the child has refused to consent to the change or his consent has not been sought.

## (15) (a) Section 41 (1)—

Before “applicants”, insert “applicant or”.

## (b) Section 41 (1A)—

After section 41 (1), insert :—

(1A) Upon an application to the Tribunal by the Director or the principal officer of a private adoption agency, the Tribunal may make an interim order for the custody of a child in favour of the applicant.

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*Adoption of Children (Amendment).*

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SCHEDULE 3—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

## (16) Section 43 (3)—

After “Commonwealth”, insert “or in New Zealand”.

## (17) (a) Section 45—

After “Commonwealth”, insert “or in New Zealand”.

## (b) Section 45—

After “Territory” where secondly and thirdly occurring, insert “or New Zealand”.

## (18) (a) Section 46 (1)—

After “Commonwealth” where secondly occurring, insert “(other than New Zealand)”.

## (b) Section 46 (2)—

After “country” where firstly occurring, insert “(other than New Zealand)”.

## (c) Section 46 (2) (b)—

Omit the paragraph.

## (d) Section 46 (5)—

After “Commonwealth” where secondly occurring, insert “(other than New Zealand)”.

## (19) (a) Section 47 (1)—

After “Commonwealth” where secondly occurring, insert “(other than New Zealand)”.