

Regulatory Impact Statement: Targeted reforms to international adoption system

Decision sought	Analysis produced for the purpose of informing Cabinet decisions on targeted reforms to international adoption and supplementary analysis pertaining to past Cabinet decisions.
Agency responsible	Ministry of Justice
Proposing Ministers	Associate Minister of Justice
Date finalised	12 November 2025

This project is aimed at delivering targeted reforms to the international adoption system. It is split across two phases. Phase 1 is a temporary change that came into force on 18 September 2025 and repeals automatically on 1 July 2027 if not already repealed or replaced. Phase 2 is intended to provide a targeted, enduring solution. This document includes supplementary analysis on Phase 1 and regulatory impact analysis on Phase 2 proposals. These proposals were developed jointly with the Department of Internal Affairs (DIA), the Ministry of Business, Innovation and Employment (MBIE), the Ministry of Foreign Affairs and Trade (MFAT), and Oranga Tamariki (OT).

Phase 1 decisions

- Temporarily suspend the recognition of all overseas adoptions by New Zealand citizens and residents for the purposes of citizenship and immigration, unless the adoption took place in a specified country that is exempt from the suspension; and
- Temporarily limit the New Zealand Family Court's adoption jurisdiction, so it can make adoption orders only in respect of adoptive parents and children who are ordinarily resident in New Zealand, unless exceptional circumstances apply or the application relates to an international surrogacy arrangement.

Phase 2 proposals

- Permanently stop the recognition of overseas adoption orders for citizenship and immigration purposes where the adoptive parents live in New Zealand at the time of the adoption (unless adopted under the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (Hague Convention));
- Continue to recognise safe overseas adoptions for immigration purposes where the adoptive parents do not live in New Zealand at the time of the adoption (i.e., New Zealand expatriates and migrants). Children adopted overseas by New Zealand citizens no longer gain citizenship by descent by operation of law;
- Establish a proactive pathway to recognise adoptions from designated countries with appropriate child-centred safeguards in place; and
- Limit the Family Court's adoption jurisdiction to applications where the adoptive parent and child ordinarily reside in New Zealand unless the adoption relates to an international surrogacy, or there are exceptional circumstances and at least one of the applicant or child ordinarily resides in New Zealand.

Summary: Problem definition and options

What is the policy problem?

There is evidence that some overseas adoptions are exposing children to serious harm including exploitation and abuse. There is also evidence that the international adoption system is leading to **s 6(a)** risks to the integrity of the immigration system.

A lack of safeguards in the current legislation is causing these problems. While non-legislative options were explored, these were ruled out early on in the process as they would not comprehensively address either problem.

Phase 1 implemented a temporary intervention. We considered whether this could be implemented on a permanent basis but concluded that those changes do not fully address the problems, contain relatively blunt tools that capture a wider group than necessary, and are administratively burdensome to maintain. A more targeted, sustainable intervention is therefore required for Phase 2.

What is the policy objective?

The broad objective is to reform New Zealand's intercountry and overseas adoption laws, which includes ensuring that:

1. they support the wellbeing and best interests of children and are not causing harm to children;
2. they align with our relevant international obligations, particularly those in the United Nations Convention on the Rights of the Child (Children's Convention), and best practice and standards outlined in the Hague Convention; and
3. through their interaction with citizenship and immigration laws, they do not create risks **s 6(a)** to the integrity of the immigration system.

What policy options have been considered, including any alternatives to regulation?

The underlying problems arise at the intersection between the three regulatory systems: adoption, immigration and citizenship. To meet the project objectives and address the policy problems, any comprehensive option needs to be multifaceted and address:

- Legal recognition of overseas adoptions
- Citizenship and immigration settings for adopted people
- Verifying overseas adoption documentation
- Jurisdiction of the New Zealand Family Court in respect of international adoptions

This paper compares the following potential enduring options for Phase 2:

- **Option One (status quo prior to phase 1 changes):** recognise overseas adoptions through an administrative process. An overseas adoption may provide citizenship or immigration entitlements. Family Court has broad jurisdiction to make adoption orders, including over adoptive applicants and children living outside of New Zealand.
- **Option Two (continue Phase 1):** continue Phase 1 on a permanent basis, by:
 - Stopping the recognition of all overseas adoptions by New Zealand citizens and residents for the purposes of citizenship and immigration, unless the adoption took place in a specified country that is exempt from the suspension; and
 - Permanently limiting the Family Court's adoption jurisdiction, so it can make adoption orders only in respect of adoptive parents and children who are ordinarily resident in New Zealand, unless exceptional circumstances apply or the application relates to an international surrogacy arrangement.
- **Option Three (comprehensive Phase 2 framework):** new framework designed with enduring effect in mind that:
 - permanently stops the recognition of overseas adoption orders for citizenship and immigration purposes where the adoptive parents live in New Zealand at the time of the adoption;

- o continues to recognise safe overseas adoptions for immigration purposes where the adoptive parents do not live in New Zealand at the time of the adoption (i.e., New Zealand expatriates and migrants). Children adopted overseas by New Zealand citizens no longer gain citizenship by descent by operation of law;
- o establishes a proactive pathway to recognise adoptions from designated countries with appropriate child centred safeguards in place; and
- o limits the adoption jurisdiction of the Family Court to circumstances where the adoptive parent/s and the child ordinarily reside in New Zealand, with limited exceptions.

What consultation has been undertaken?

Consultation on Phase 1 was limited to the judiciary, given their interest in the administration of the courts, and the Government of Samoa, given New Zealand’s obligations under the Treaty of Friendship. Due to the sensitive nature of the proposals and time constraints, no further consultation was undertaken.

Consultation on Phase 2 was slightly wider than Phase 1 but still narrow in scope. We consulted with the judiciary, the Government of Samoa,^{s 6(a)}

Mana Mokopuna | Children’s Commissioner, and the New Zealand Law Society.

In forming these proposals under both phases, the Ministry drew on feedback from two rounds of public consultation run in 2021 and 2022.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Phase 2 Minister’s preferred option in the Cabinet paper

Costs (Core information)

The main monetised costs in Phase 2 fall in a potential increase in applications to the Family court, modelled between \$32,992 - \$83,983. This has flow on impacts for OT who will face costs of between \$123,845 and \$288,971. There is a choice as to whether these costs are met through increased funding above baseline or through an impact on court timeliness.

There will also be costs faced by adoptive parents for visa applications rather than passport applications. We have not included monetised costs for aspects of this proposal that do not require primary legislation changes as decisions have not yet been taken. There will likely be flow on implications for the designation framework and immigration changes for both MBIE and OT.

Other non-monetised costs include the high impact on people who have already adopted and not yet applied for a visa for their adopted child, or for those in the process of, or intending to, adopt overseas. It will mean some people now may not be able to adopt and may create uncertainty about how children in the process of being adopted, or already adopted, will move to New Zealand.

Benefits (Core information)

For Phase 2 the main benefit is reducing the risk of harm to children and young people through removing an adoption pathway where we know harm is occurring, and taking a comprehensive, system wide approach involving citizenship and immigration settings to ensure adoption is not used to bypass the immigration and citizenship systems. ^{s 6(a)}

Balance of benefits and costs (Core information)

Given the benefit of stopping harm to children through suspending a pathway where harm is occurring, our assessment is that the benefits outweigh the costs. The preferred option is designed in a way that minimises costs as far as possible, and elements of the proposal that would have been more costly were ruled out through the policy development process.

The benefit-cost ratio may change over time as countries are designated through the new pathway, given the associated costs of implementing the relevant bilateral arrangements and operationalising the necessary child safeguards.

Implementation

DIA, Justice, MBIE and OT will all be required to undertake work to implement Phase 2. Some of the proposals in Phase 2 draw on the implementation from Phase 1, including in the Family Court. There is still further work required to develop immigration proposals where there will be significant implementation requirements. Transitional arrangements between Phase 1 and Phase 2 will be required, particularly related to how the exemptions framework under Phase 1 intersects with the designation framework under Phase 2.

Limitations and Constraints on Analysis

We acknowledge that our analysis has been constrained by the following factors:

- **Data:**

- We have used data provided by DIA and Immigration New Zealand as a proxy to understand how many overseas adoptions rely on the section 17¹ pathway for recognition for citizenship and immigration purposes. There is no other data collected that captures the number of adoptions that are recognised in New Zealand under section 17.
- Data provided by DIA is manually entered into the system so is reliant on accurate data entry. This includes selecting the correct adoption type and country of adoption.
- Data provided by Immigration New Zealand is an estimate only and relies on an immigration officer manually noting that an application involves a New Zealand recognised adoption. An 'NZ recognised adoption' is not limited to section 17 adoptions, but may also capture overseas domestic and intercountry adoptions, adoptions through the New Zealand family court, and customary adoptions. A range has been provided to account for inaccuracies in data entry.
- Data provided on section 3 adoptions² may include domestic adoptions, customary adoptions, and adoptions to formalise surrogacy arrangements. It is not clear how many relate to international adoptions. This means there is low to medium confidence in the modelling for the increase in applications to the Family Court. Implementation of changes to the Family Court's jurisdiction through Phase 1 will enable a more accurate understanding of the scale of international adoptions under section 3 through the use of an 'exceptional circumstances' tag in the court's case management system, but at this stage there is negligible data given the short time the change has been in place for.
- There is a lack of quantitative data relating to care and protection cases as a result of international adoptions through the section 17 pathway. Samples of reports of concern have provided some information about the nature of abuse and scale of reports of concern over a period of time.

¹ Section 17 of the Adoption Act was the most used pathway to recognise international adoptions by New Zealand citizens and permanent residents prior to the Phase 1 changes. Section 17 is an administrative pathway that means children adopted by a New Zealand citizen can access citizenship by descent by operation of law and a child adopted by a New Zealand citizen or permanent resident can access immigration pathways.

² Section 3 of the Adoption Act enables an application to be made to the Family Court to make an adoption order.

- OT has modelled the impact on social workers and legal input based on average number of hours per case and mid-point in salary ranges. Impact on National Office teams to support the impact of the changes has not been assessed.
- **Timeframes:** Both phases are being developed under significant time constraints to move quickly to address the immediate risk of harm to children and move fast to develop an enduring solution to provide certainty before the Phase 1 changes expire. This has limited the ability to consult more widely.
- **Phase 1 sensitivity:** Given the need to address the immediate risk of harm, the Phase 1 proposals were developed under heightened security measures which limited our ability to consult. This is because should information about the proposal have been made public, it could have incentivised people to expedite unsafe adoptions before the Bill commenced. Elements of this continue for Phase 2. Some content is also classified restricted across both phases which further limited the ability to consult.
- **Targeted consultation:** Phase 1 consultation was limited to the judiciary, given its interest in the administration of the courts, to ensure the proposal was implementable, and the government of Samoa to meet New Zealand's obligations under the Treaty of Friendship. Phase 2 consultation was wider but still very targeted due to time constraints and the sensitive nature of the proposal. We have sought to mitigate the impact of targeted consultation by drawing on wider consultation the Ministry ran in 2021/22. s 6(a)
- **Costs:** given the limitations to the data and evidence, our ability to develop robust costing advice is constrained. Further, changes in the preferred option require amendments to immigration instructions and requisite operational changes. This work is progressing on a longer track and so has not yet been costed. Costs therefore relate only to implementation of primary legislation changes, and do not cover flow on impacts of non-legislative changes.
- **The limited scope of the work:** Officials have been directed to provide advice on options to address the risk of harm to children and young people s 6(a) created by international adoption pathways. The analysis is limited to these specific issues.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the Phase 1 chosen option and the Phase 2 preferred option.

Responsible Manager(s) signature:



Megan Noyce

**Acting General Manager, Courts and Justice Services Policy
12 November 2025**

Quality Assurance Statement

Reviewing Agency: Ministry of Justice

QA rating: Meets

Panel Comment:

A quality assurance panel from the Ministry of Justice, with representation from the Ministry of Business, Innovation and Employment, has reviewed the Regulatory Impact Statement (RIS) Targeted reforms to international adoption system prepared by the Ministry of Justice and considers that the information and analysis summarised in the RIS **meets** the Quality Assurance criteria.

The RIS clearly identifies the problem, objectives, and analyses the main options and their costs and benefits. Limitations and constraints are outlined, including a reliance on targeted consultation to mitigate the lack of public consultation on these proposals. The panel considers that, within the constraints outlined in the RIS, the analysis can be relied on to support decision-making.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

What is the current state within which action is proposed?

1. The Adoption Act 1955 sets out the legislative framework underpinning most domestic and international adoptions in New Zealand. This legislation is 70 years old, and there is increasing consensus that the Act no longer meets the needs of our society or reflects modern day adoption best practice.
2. The Act has been the subject of review over more than two decades, but substantial reform has not been completed. In 2000, the Law Commission published a report on adoption law reform, setting out a case for change. More recently, in 2021/2022, the Ministry of Justice ran two rounds of public engagement to guide the development of proposals for creating a new adoption system.
3. Previous work has covered both domestic and international adoption. In recent years, international adoptions make up the vast majority of adoptions newly recognised each year in New Zealand. This RIS is focussed on targeted options to address specific risks related to two international adoption pathways.
4. In September 2025, a temporary suspension to most international adoptions was enacted and implemented to prevent harm to children and young people. The temporary suspension will be in place until no later than July 2027. The temporary suspension, referred to as 'Phase 1', is discussed further in section 2A.
5. Given the current suspension is temporary, **this RIS refers to the status quo as the adoption law settings before the suspension was implemented**. Adoption law will revert to these settings in July 2027 if no further action is taken.

What are the key features of the regulatory systems already in place in this area? What are the objectives?

6. The international adoption system sits across three regulatory systems: adoption (including the Adoption Act 1955 and the Adoption (Intercountry) Act 1997), citizenship (including the Citizenship Act 1977), and the immigration system.

Adoption legislation

7. There are three main pathways that currently facilitate international adoptions, and therefore transfer the legal parentage of a child:

Pathway 1: Hague Convention adoptions under the Adoption (Intercountry) Act

8. New Zealand is a contracting state to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention). Where a parent is habitually resident in New Zealand and wishes to adopt a child habitually resident in a Hague Convention country, they must use the Hague Convention process. The Hague Convention intercountry adoption process has embedded safeguards to protect children and is considered best practice.
9. Where the Hague Convention applies, Central Authorities (in New Zealand's case, Oranga Tamariki) facilitate adoptions at the state level. New Zealand has Hague Convention intercountry adoption programmes with six countries, with kin adoptions from other Hague signatories occasionally facilitated outside of these programmes.³ No proposals in this package affect Hague Convention adoptions.

Pathway 2: New Zealand Family Court adoptions under section 3 of the Adoption Act

10. The Family Court has jurisdiction to make adoption orders (where the Hague Convention does not apply) for children and adoptive parents who are resident anywhere in the world under section 3 of the Adoption Act. Judicial oversight and protections in the Adoption Act provide safeguards in that process. This process is also used to grant adoptions to recognise international surrogacies.

Pathway 3: Recognition of overseas adoptions under section 17 of the Adoption Act

11. Prior to the Phase 1 changes, the most used pathway is the recognition of overseas adoptions from countries that meet the criteria in section 17 of the Adoption Act.⁴ This is an administrative pathway to recognise adoptions concluded in an overseas jurisdiction with compatible legislation, which may mean the child can access citizenship or immigration pathways. Once the adoption order is finalised in an overseas court, the child's citizenship can be registered with DIA (as an administrative process only) or they can apply for a Dependent Child Resident visa, with the adoption order as the legal basis. Provided the criteria in section 17 are met, agencies are required to recognise the adoption regardless of safeguards (or lack thereof) in the overseas court. Section 17 also means the relationship is recognised for domestic purposes such as medical treatment. This includes:
 - a) **entirely overseas adoptions**, where both the adoptive parent/s and child live overseas at the time of the adoption and the adoption is made overseas (for example, expatriate adoptions or migrant adoptions⁵); and
 - b) **overseas adoptions where the adoptive parent/s live in New Zealand**, the child lives overseas, and the adoption is made overseas.

³ New Zealand has intercountry adoption programmes with six of the 104 signatories under the Hague Convention: Chile, Hong Kong, India, the Philippines, Lithuania, and Thailand.

⁴ To be recognised under section 17 an overseas adoption must be legally valid in the country in which it was made and give the adoptive parents both a greater right to provide day-to-day care of the child than the birth parents and an equal or greater right than the birth parents to inherit the child's property as next of kin.

⁵ An expatriate adoption is where a New Zealand citizen or (in some cases) permanent resident lives overseas and adopts a child overseas, with the intention at that time of continuing to reside outside of New Zealand. A migrant adoption is where a citizen of another country lives overseas and adopts a child overseas, with the intention at that time of continuing to reside outside of New Zealand.

Citizenship Act 1955

12. There are three types of New Zealand citizenship:

Type	Eligibility
Citizenship by birth	Born in New Zealand ⁶ to at least one parent who, at the time of birth, was a New Zealand citizen or entitled under the Immigration Act 2009 to be in New Zealand indefinitely, or entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau.
Citizenship by descent	Born overseas to at least one parent who was a New Zealand citizen otherwise than by descent at the time of the birth.
Citizenship by grant	Anyone who meets the requirements for New Zealand citizenship (including a citizen by descent).

13. A child adopted through the Hague Convention process (Pathway 1) is issued with an 'Article 23 certificate' as confirmation the adoption was finalised. If the certificate is issued by the New Zealand authority, subject to an adoptive parent meeting the requirements, the child becomes a New Zealand citizen by birth from the time of the adoption. If the certificate is issued by the overseas authority, the child is a New Zealand citizen by descent from the time of the adoption.
14. A child adopted through the Family Court (Pathway 2) becomes a New Zealand citizen by birth at the time of the adoption, subject to the adoptive parents meeting the requirements.
15. When a New Zealand citizen (otherwise than by descent) adopts a child under the age of 14 years old in an overseas court (Pathway 3), the child is automatically a New Zealand citizen by descent. While citizenship must be registered with the Department of Internal Affairs (DIA) to obtain a passport, there is no assessment process or criteria to meet as the entitlement to citizenship is a matter of law. Instead, DIA runs an administrative process to ensure the adoption meets the requirements for recognition per section 17 of the Adoption Act.
16. Once citizenship has been registered, the child is able to obtain a New Zealand passport which they can use to travel to New Zealand. [s 6\(c\)](#)

Immigration system

17. An adopted child may also be eligible for a residence class visa based on the parent-child relationship. Immigration New Zealand considers whether an overseas adoption order meets the criteria in section 17 when determining whether there is a dependent child relationship between an adoptive parent and child for immigration purposes.
18. The main visa where section 17 adoptions are recognised is the Dependent Child Resident Visa, which allows the child to indefinitely live, work or study in New Zealand. This visa can be granted up to age 24, provided the parents are NZ citizens or residents who live in NZ, and the adopted child is financially dependent on the adoptive parents, single, and has no children of their own.

⁶ New Zealand is defined in the Citizenship Act to include realm countries (Cook Islands, Niue, Tokelau, and the Ross Dependency). Adoption orders in realm countries are the same as adoption orders made in New Zealand. Children adopted in realm countries are New Zealand citizens by birth and unaffected by any proposed changes to overseas adoptions.

Interaction between the regulatory systems

19. Interactions between the adoption, citizenship and immigration systems enable access to New Zealand for children adopted overseas. Once recognised under section 17, an overseas adoption demonstrates that a parent child relationship has been established, which can then be used to gain citizenship by descent or access to immigration pathways, both which enable the child to enter New Zealand. Citizenship by descent or the Dependent Child Resident Visa both give the child the right to remain in New Zealand indefinitely, and access education and work in future. In some cases, adoptive parents intentionally use this pathway to bring children to New Zealand who are subsequently harmed.

International surrogacy arrangements and adoption pathways

20. As we do not have a standalone surrogacy regime, section 3 is also relied on to formalise international surrogacy arrangements through the New Zealand Family Court. There is an existing international surrogacy protocol with separate safeguards established, pending the passage of the Improving Arrangements for Surrogacy Bill. There are established process for the Family Court formalising international surrogacy arrangements through an adoption under section 3. As such, changes to surrogacy are not in scope of this work, and any proposals that impact on section 3 will include a carve out for international surrogacy.
21. Section 17 may also be used to recognise parentage in international surrogacy arrangements, for example, where parentage was confirmed via an overseas adoption order. For the purposes of this work, overseas adoption orders confirming parentage in surrogacy arrangements are treated the same as other overseas adoption orders. This is because it is not always operationally possible to identify adoptions made overseas for the purpose of surrogacy. We also understand there are emerging safety concerns in some overseas countries.

What is the policy problem or opportunity?

22. The interactions between adoption, citizenship and immigration legislation have created two key problems:
- **Risk of harm to children:** the lack of safeguards in the section 17 pathway meant some children and young people whose adoptions were recognised under this pathway, and consequently brought to New Zealand, have experienced significant harm, including abuse, neglect and exploitation.⁷ This is particularly a risk for overseas adoptions where the parents live in New Zealand as the overseas court may not have visibility over New Zealand information about the suitability of the adoptive parent. This is where we see the greatest evidence of harm occurring.
 - **s 6(a) integrity of the immigration system:** The section 17 pathway undermined the integrity of citizenship and immigration systems^{s 6(a), 6(c)}

⁷ For example, in March 2020 Joseph Matamata was convicted of 10 counts of trafficking in persons and 13 counts of slavery (note: two of the trafficking convictions have been found to involve procedural errors and may be quashed by the Court of Appeal. The remaining 21 convictions are unaffected). Three victims were adopted through Samoa's Family Court and brought to New Zealand from Samoa after obtaining Dependent Child visas.

s 6(a)

23. These problems relate exclusively to the section 17 and section 3 pathways, not the Hague Convention adoption pathway. As such, Hague Convention adoptions are not affected by the policy proposals in this RIS.

What is the nature, scope, and scale of the problem that the intervention is seeking to address?

24. International adoptions using the section 17 pathway for recognition make up the vast majority of international adoptions in New Zealand – see Table 1.

Table 1: Data on International Adoptions 2023/24

International adoption pathways	Children	Date range (12 months)
Adoptions under the Hague Convention where New Zealand was the receiving state (pathway 1)	30	1 July 2023 – 30 June 2024
Non-Hague intercountry adoption – section 3 of Adoption Act ⁸ (pathway 2)	14	1 July 2023 – 30 June 2024
NZ citizenship by descent granted following an overseas adoption (commonly under s 17) (pathway 3)	499	1 January 2024 – 31 December 2024
Approved dependent child residence visas following an overseas adoption (commonly under s 17) ⁹ (pathway 3)	369-716	1 January 2024 – 31 December 2024

Harm to children and young people

25. There is evidence that some overseas adoptions are exposing children to serious harm including exploitation and abuse.
26. s 6(a)

- 28.1. Abuse is occurring – children and young people were reported to have been subject to sexual abuse including rape, physical abuse with weapons, psychological abuse, neglect, slavery, and trafficking; and
- 28.2. Abuse is preventable – s 6(a) already had histories of reports of concern with Oranga Tamariki as

⁸ This data refers to cases where Oranga Tamariki were requested to provide a Home Study report. Non-Hague intercountry adoption orders formalised under s 3 of the Adoption Act in the New Zealand Family Court may include international surrogacy arrangements.

⁹ This data is an estimate only. Note the following caveats: these numbers are not exclusive to s 17 adoptions, and may include intercountry adoptions, adoptions made through the Family Court or, occasionally, customary adoptions. A range has been provided to account for inaccuracies in data entry (as this information relies on Immigration Officers selecting in each application that there has been a New Zealand recognised adoption).

parents/caregivers and/or with the New Zealand Police (including sexual and physical abuse of children) before adopting children overseas.

29. Records from Oranga Tamariki show New Zealand agencies have responded to instances of harm to children adopted from overseas for years.
30. An analysis of 48 case files referred to the International Child Protection Unit in 2023 found evidence of abuse, and that 40 percent of adopted children from the 48 cases reported being treated like 'slaves' or experienced child labour exploitation.
31. Evidence of the harm relates only to cases that are known about but suggests a lack of safeguards are enabling harm to occur. There may be further cases that have not come to light.

s 6(a) integrity of the immigration system

32. The interactions between the regulatory systems are creating **s 6(a)** risks to the integrity of the immigration system.
33. As noted above, a child adopted under the age of 14 by a New Zealand citizen (otherwise than by descent) automatically becomes a New Zealand citizen by descent as a result of the adoption. As this is a legal entitlement, there is no scope to scrutinise the appropriateness or safety of the adoptive arrangement. The child is then entitled to obtain a New Zealand passport while offshore, which enables them to enter and live in New Zealand **s 6(a)**
34. Where a child applies for a visa pathway using section 17 as the basis for the application, Immigration New Zealand will check the validity of the adoption but legally cannot make any assessment of the safeguards that may or may not have been observed. This means that Immigration New Zealand does not have visibility of, for example, whether the adoptive parents have a history of violence or child abuse. These factors cannot be taken into account when determining whether to grant the child's visa.
35. When undertaking the administrative recognition process, agencies are also unable to scrutinise the validity of adoption documentation submitted in support of the application, in the absence of proof that the documentation is fraudulent.
36. **s 6(a)**

37. **s 6(c)**

¹⁰ **s 6(c)**

s 6(c)

38. s 6(a)

Who are the regulated parties and/or other stakeholders in this issue, what is the nature of their interest, and how are they affected? What are their views of the problem?

39. **Children:** Children are the key group affected by the changes as they are currently at risk of harm. We want to ensure that adoptions are safe for the children involved and that decisions made are in their best interests. While there is a risk of harm at any age, older children may be at greater risk of abuse, neglect or exploitation through overseas adoptions.
40. **Mana Mokopuna | Children's Commissioner:** We tested our Phase 2 proposals with Mana Mokopuna, in their capacity as an independent advocate for children.
41. **New Zealanders wishing to adopt, or who have already adopted, through an overseas court:** These proposals will impact New Zealand citizens and permanent residents wishing to adopt in an overseas court with the intention of bringing the child to live in New Zealand. They will be concerned how this impacts on future family plans.
42. **Migrants with adopted children who are living in New Zealand, or looking to move to New Zealand:** These proposals may raise concerns for migrants, particularly who wish to travel and settle in New Zealand permanently. While there is unlikely to be a significant impact on migrants who adopted in their home country, there could be a perceived risk that the parent-child relationship will not be recognised which may prevent potential migrants from travelling to New Zealand.
43. **Courts:** The Family Court is responsible for hearing adoption applications and making relevant orders. The proposals relating to the Family Court aim to mitigate the risk that there will be increased applications to the Family Court because of the closure of other pathways.
44. **Other government agencies:** We have jointly developed these proposals with DIA, MBIE, MFAT and OT to ensure a system wide approach. As delivery partners, they will be required to amend legislation and/or systems to operationalise the proposals. We have taken a cross agency approach to defining the problem and developing proposals to ensure a shared, multi-dimensional solution that mitigates risks of workarounds. MFAT has an interest to ensure diplomatic relations are maintained with affected countries.
45. s 6(a)

46. ~~[Restricted]~~ **Samoa government:** The Treaty of Friendship is a bilateral arrangement between the Governments of New Zealand and Samoa. Article II requires the two Governments to consult each other, where appropriate, on matters of mutual interest and concern. In recognition of our special relationship, the Protocol to the Treaty further requires Samoa be consulted on all citizenship and immigration matters affecting its citizens. 75% of all overseas adoptions are from Samoa so this country will be particularly affected by the proposals. In developing these proposals, we consulted with the Government of Samoa, and used feedback from the 2021/2022 Ministry of Justice consultation.
47. **Other governments:** Other governments may have an interest in these changes as they may impact their populations or have diplomatic relations implications. s 6(a)
48. **Pacific diaspora population:** New Zealand has a significant Pacific diaspora population, with more than 8% of New Zealand's population identifying as being of Pacific Origin.¹¹ Most Pacific peoples were born in New Zealand with approximately a third born in the Pacific Islands, later migrating to New Zealand.¹² Pacific countries also make up most of the overseas adoptions recognised in New Zealand, and as many are not Hague Convention signatories, will be affected by these proposals. We utilised responses from Pacific communities to the 2021/2022 Ministry of Justice consultation on adoption to form these proposals.
49. **Legal profession:** We undertook targeted consultation with the legal profession on our Phase 2 proposals through the Family Law Section and the Immigration & Refugee Law and Public Law Committees of the New Zealand Law Society.

Does this problem disproportionately affect any population groups?

50. Pacific populations make up the majority of international adoptions recognised in New Zealand, and most of these adoptions are from Samoa. The Samoan population is the largest Pacific population in New Zealand (47.9% of New Zealand's Pacific population in 2020).¹³
51. People adopting children from Samoa will be disproportionately impacted as a result. s 6(a)
52. As a proxy to understand the potential numbers of section 17 adoptions coming to New Zealand, we have used the number of citizenship by descent applications as a result of an adoption to DIA combined with the number of dependent child resident visa applicants who were adopted in a New Zealand recognised adoption.
53. In both data sets, applications from children adopted in Samoa form the biggest group. In 2024, there were 365 applications for citizenship by descent and between 257-513 applications for dependent child resident visas.
54. Kiribati had the next highest application numbers, 45 and 33-66 for citizenship by descent and dependent child resident visa applications respectively. Across the last 7 years, adoptions in Samoa have consistently been the highest number of applications for

¹¹ Reported by the Ministry for Pacific Peoples in 2020. See <https://www.mpp.govt.nz/assets/Reports/Pacific-Peoples-in-Aotearoa-Report.pdf> – page 10.

¹² As above, page 14.

¹³ As above, page 18.

citizenship by descent and dependent child visa applications because of an adoption by a New Zealand citizen.

55. Data tables are available in **Appendix 1**.

Have you consulted with them? What is their view of the problem?

56. Consultation in 2021/22 indicated that Pacific families have used adoption as a cultural practice particularly within families. Reasons for such adoptions include where the adoptive parents cannot have their own children, where the birth parents cannot care for the child, to facilitate access to education and employment opportunities, or to escape climate change. Some may consider this in the child's best interests even though the children often still have families in their country of origin who are able and willing to care for them. Through consultation, Pacific communities supported increased scrutiny to ensure appropriate safeguards are in place to protect children's wellbeing.¹⁴

57. We consulted with the Government of Samoa for both phases of the work:

- **Phase 1:** The New Zealand High Commissioner in Samoa consulted with senior Samoan officials in June. s 6(b)(i)

- **Phase 2:** The New Zealand High Commissioner in Samoa subsequently consulted with senior Samoan officials on the Phase 2 proposals in October. s 6(b)(i)

Are there any special factors involved in the problem?

58. Both Phase 1 and 2 engage the right to freedom from discrimination on grounds of national origin and may engage on the grounds of family status under section 19 of the New Zealand Bill of Rights Act 1990.

59. The proposals are likely to be relevant to rights under UNCROC, and, in particular, article 21 which relates to the rights of children in respect of adoptions, including inter-country adoptions.

60. This problem directly relates to adopted children's safety and welfare, but we have not directly engaged with children through the policy process.

What objectives are sought in relation to the policy problem?

61. The broad objective is to reform New Zealand's intercountry and overseas adoption laws, which includes ensuring that they:

- 1) support the wellbeing and best interests of children and are not causing harm to children;
- 2) align with our relevant international obligations, particularly those in the United Nations Convention on the Rights of the Child (Children's Convention), and best practice and

¹⁴ <https://www.justice.govt.nz/assets/Uploads/Adoption-reform-Summary-of-engagement-2022.pdf> – paragraphs 29 and 58.

standards outlined in the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption; and

- 3) through their interaction with citizenship and immigration laws, do not create risks **s 6(a)** to the integrity of the immigration system.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

62. While the same criteria apply to both Phase 1 and Phase 2, there are different balancing and trade off considerations for the phases:

Criterion	Application to options assessment	Balancing and trade-off considerations
Children’s well-being and rights	Does the option support the wellbeing and best interests of children, including preventing harm to children? Does the option fulfil New Zealand’s obligations in respect of the rights of children as set out in the United Nations Convention on the Rights of the Child and the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption?	This is the primary criterion across both Phase 1 and Phase 2, as the welfare and best interests of the child is a primary consideration in UNCROC and the Hague Convention, which NZ is a signatory to. It is also the paramount consideration in some New Zealand statutes regarding children. ¹⁵ Directly addresses objectives 1 & 2.
Fit for purpose	Does the option uphold the integrity of our citizenship and immigration systems, while maintaining consistency with contemporary patterns of family mobility? Does the option introduce any new barriers to families whose behaviour the option is not intended to target?	For Phase 1, this criterion is met if the option meets objectives 1 and 2. This is consistent with the scope of Phase 1. For Phase 2, options must meet all three objectives.
Feasibility	Is the option workable? Can it be implemented clearly and efficiently?	For Phase 1, a workable option is assessed from an immediately implementable perspective. As Phase 2 will need to be an enduring solution, we consider both the immediate implementation and long term feasibility of options.
Jurisdictional scope & international comity	Is the option consistent with international law principles regarding the application of New Zealand law to conduct or people outside New Zealand? Is it consistent with New Zealand’s international interests?	This criterion is relevant across both phases. It is more heavily weighted for Phase 2, given the changes are intended to be permanent and may have more significant implications for New Zealand’s international interests.

¹⁵ See section 4, Care of Children Act 2004.

What scope will options be considered within?

63. Reflecting direction from Justice Ministers, the scope for enduring reforms has been limited to considering targeted changes to the international adoption system that address the risk of harm to children ^{s 6(a)}
64. Broader consideration of the adoption system was out of scope, including:
- Any impacts or amendments to New Zealand’s domestic adoption framework: the Ministry of Justice’s previous adoption reform work in 2021-2022 considered domestic and international reforms in tandem, given the interconnected legislation and systems. This means initiatives considered in the earlier reform work that would impact across both international and domestic adoptions, such as introducing a purpose for adoptions, were out of scope of this work;
 - Changes affecting the existing Hague Convention process for intercountry adoption;
 - International and domestic surrogacy processes (beyond how they interact with overseas adoption laws); and
 - Trafficking laws, noting work is occurring separately but in parallel.

Part 2A: Assessing the short-term Phase 1 option chosen to address the policy problem

65. Work on an enduring solution began in March 2025. However, in May 2025, the Associate Minister of Justice requested urgent advice on interim legislative solutions that could be implemented in the short-term, to address the immediate risk of harm to children and young people.
66. The primary focus of Phase 1 was to address the risk of harm to children and young people. However, by limiting the number of overseas adoptions recognised for citizenship and immigration purposes, they also partially address ^{s 6(a)} immigration system risks resulting from the automatic flow of citizenship by descent and immigration entitlements.

The Adoption Amendment Act 2025

67. The Adoption Amendment Act 2025 (the Amendment Act), which contains Phase 1 changes was passed through all stages under urgency on 16 September 2025. The Amendment Act came into effect on 18 September 2025.

Suspending section 17 of the Adoption Act, with some exceptions

68. The Amendment Act temporarily suspends the recognition of some overseas adoptions, made by New Zealand citizens or residents, for the purposes of citizenship and immigration.
69. Specified countries have been exempted from the suspension of section 17, where we are satisfied that their domestic adoption systems have sufficient safeguards to protect children and young people from harm.
70. Adoptions are not impacted by the suspension if:
- they were made in an exempt country,
 - they involve adoptive parents who are not New Zealand citizens or residents (for example, new migrants to New Zealand), or

- they are made under the Hague Convention process.
71. The amendment to section 17 means that children adopted in non-exempt overseas countries by New Zealand citizens and residents are no longer entitled to citizenship by descent, or to access immigration pathways with reliance on the overseas adoption order. In effect, children whose adoptions may not be subject to sufficient safeguards will no longer have the opportunity for streamlined entry into New Zealand on the basis of an overseas adoption.
72. s 6(a)

Limiting the jurisdiction of the New Zealand Family Court to grant adoption orders

73. Given the unusually broad jurisdiction of the New Zealand Family Court to grant adoption orders, before the Amendment Act was passed, there was a risk that people would use the court pathway as a workaround to the suspension of section 17.
74. To limit this risk, the Amendment Act amends section 3 of the Adoption Act 1955 to temporarily limit the court's jurisdiction so it can only make adoption orders for adoptive applicants or children not ordinarily resident in New Zealand in exceptional circumstances. This change does not apply to international surrogacy arrangements.
75. The change means that the court can only grant an adoption order if:
- both the adoptive parent(s) and child are ordinarily resident in New Zealand, or
 - the adoptive applicant, or child, or both are ordinarily resident outside New Zealand, but exceptional circumstances apply, or
 - it is formalising an international surrogacy arrangement.

Interaction between Phase 1 and Phase 2

76. The changes made during Phase 1 are temporary and will expire on 1 July 2027 at the latest. These temporary changes were designed to be in place only until an enduring solution could be implemented.

Objectives

77. The primary objective of Phase 1 was to ensure that New Zealand's international adoption system was not being used to facilitate harm to children while an enduring solution was being developed.
78. However, Phase 1 was developed in the context of the broad objectives for the work on enduring international adoption laws (refer to paragraph 61).

What options were considered by Cabinet?

79. Originally, officials were asked to present all feasible options to Cabinet when seeking policy approvals. However, after briefing Justice Ministers, it became clear that there was only one feasible package that would effectively address urgent risks of harm to children.
80. This meant that only one package of options was put to Cabinet in the paper *short-term options for international adoptions* (SOU-25-MIN-0087 refers). This package was to temporarily:
- 80.1. suspend the recognition of overseas adoptions, made by New Zealand citizens or residents, through section 17 of the Adoption Act 1955 for citizenship and immigration purposes, and

- 80.2. limit the jurisdiction of the New Zealand Family Court to make adoption orders in respect of adoptive parents and children not ordinarily resident in New Zealand, unless exceptional circumstances apply, or the adoption is to formalise a surrogacy arrangement.
81. This package of options was the preferred option for both the Ministry of Justice and Associate Minister of Justice, due to its effectiveness in reducing harm to children.

What consultation has been undertaken?

82. The Department of Internal Affairs, Oranga Tamariki – Ministry for Children, and the Ministries of Business, Innovation and Employment (MBIE), and Foreign Affairs and Trade (MFAT) were involved in the development of Phase 1 proposals. New Zealand Police, and the Ministries for Pacific Peoples, and Ethnic Communities, were consulted on the proposals.
83. Outside of government agencies, we consulted with the Principal Family Court Judge and the Government of Samoa.
84. We did not undertake public consultation due to time constraints and sensitivity. However, public consultation on proposals for broader adoption reform, including the international adoption system, was undertaken in 2021 and 2022. Insights from these rounds of consultation were used in the development of Phase 1.

Is the chosen option likely to address the problem, meet the policy objectives, and deliver a positive net benefit?

85. The primary problem being addressed through Phase 1 was the risk of harm to children and young people. We were asked to develop options for a temporary solution, so chose options that were able to be implemented quickly and would be effective and feasible in the short-term. However, the package of options under Phase 1 does not fully address the **s 6(a)** and is not feasible long-term.
86. The Amendment Act put an immediate stop to the pathway that allows children to gain New Zealand citizenship or residency after being adopted by New Zealand citizens and residents in countries that may not have sufficient safeguards in their adoption systems. While the changes are temporary, the suspension allows time for an enduring solution to be developed and implemented.
87. Phase 1 engages the right to freedom from discrimination on grounds of national origin and may engage on the grounds of family status under section 19 of the New Zealand Bill of Rights Act 1990.
88. Crown Law Office advised the Attorney-General that the limitation on section 19 appears to be justified. This is because the changes are intended to protect children from serious harm following overseas adoptions. Country exemptions and the Family Court's power to allow intercountry adoptions in exceptional circumstances preserves the ability for children to be adopted from overseas where the Minister or court is satisfied that there are adequate safeguards in place to protect the rights and best interests of the child. The changes are also temporary in nature.

What are the marginal costs and benefits of the chosen option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the chosen option compared to taking no action			
Children	<p>Where children are in need of a new family by way of an adoption, children may be separated from their adoptive families until they are able to enter New Zealand.</p> <p>Children being adopted for the purpose of access to better education or work opportunities may no longer be able to access these.</p> <p>Overseas adoptions continue to occur despite the suspension. This means the legal parent-child relationship will be established, but the child will not be able to enter and permanently reside in New Zealand with the applicants.</p>	High	High
New Zealand citizens and permanent residents wishing to adopt overseas	<p>May not be able to bring children adopted overseas into New Zealand while the changes are in place.</p> <p>We know that the changes will have a high impact, particularly on Samoan communities. Most overseas adoptions recognised in New Zealand occur in Samoa, which is not an exempt country under the Adoption Amendment Act 2025.</p>	High	Medium-high
Government <i>The Ministry of Justice – courts</i>	<p>Modelling suggests an increase of between 70 and 525 new adoption applications being filed in the Family Court annually, as a result of these changes (assuming between 10-75% of overseas adoptions recognised annually under section 17 prior to Phase 1 instead apply to the Family Court).</p> <p>As a consequence, the Family Court and the Ministry of Justice will face increased costs, through things such as set up costs and remuneration for judges and support staff, and additional provision of services such as interpreters and lawyer to assist.</p>	<i>Between \$2.420 - \$5.253m in year 1. These changes will be in place until 1 July 2027 at the latest, though they are likely to be repealed sooner.</i>	Low-medium

	<p>We cannot be certain of exact costs, as modelling is based on citizenship and immigration records from previous years. We cannot estimate how many of these cases will now apply to adopt in the Family Court under section 3.</p> <p>As court timeliness is dependent on adequate resourcing, if monetary costs are not met, or if demand exceeds our predictions and additional demand is required to be met within existing resource, this will impact the Family Court’s timeliness by slowing down the disposal rate.</p>		
Government <i>Ministry for Business, Innovation and Employment</i>	There may be an increase in applications for exercise of Ministerial discretion to grant immigration entitlements.	Low	Low – medium It is unclear how many applications for ministerial discretion there will be, and therefore what the cost might be.
Government <i>Department for Internal Affairs</i>	There may be an increase in applications for exercise of Ministerial discretion for citizenship by grant under section 9(1)(c) of the Citizenship Act.	Low	Low – medium It is unclear how many applications for ministerial discretion there will be, and therefore what the cost might be.
Government <i>Oranga Tamariki</i>	<p>Social worker reports are required by a Judge before making an adoption order under section 10 of the Adoption Act. Based on the same assumptions as Ministry of Justice data, modelling suggests an increase of between 70 and 525 new adoption applications being filed in the Family Court annually, and therefore the number of social worker reports request will increase by the same number. OT will be required to fund this and linked court appearances. If monetary costs cannot be met within baseline, it may have court timeliness impacts.</p> <p>We cannot be certain of exact costs, as modelling is based on citizenship and immigration records from previous</p>	<p>s 9(2)(f)(iv)</p> <p>These changes will be in place until 1 July 2027 at the latest, though they are likely to be repealed sooner.</p>	s 9(2)(f)(iv)

	<p>years. We cannot estimate how many of these cases will now apply to adopt in the Family Court under section 3.</p> <p>Oranga Tamariki will also have a role in the provision of care and protection checks and other information to Immigration New Zealand in relation to dependent child visa applications involving children adopted overseas. This will have some resource impact on Oranga Tamariki, but this impact has not been assessed as officials are still working through how this will be operationalised, what level of information will be required, and how many applications will be received.</p> <p>DIA are facing additional queries about requirements for people who were previously eligible for citizenship by descent, and this may have flow on implications for citizenship by grant applications.</p>		
s 6(a)			
Regulated groups	Professional groups (e.g., Immigration officers, family/immigration lawyers) would have had little to no time to prepare for significant change to the international adoption system. Groups may have faced questions or extra work where clients/the public had questions and concerns about the changes, and would have had to familiarise themselves with the changes quickly to address concerns.	Low -medium	Medium
Total monetised costs	Monetised costs will fall on Justice and Oranga Tamariki. These will be dependent on the number of adoption applications to the Family Court under section 3 of the Adoption Act.	s 9(2)(f)(iv)	s 9(2)(f)(iv)
Non-monetised costs	There is a high cost for both adoptive families and adopted children, in cases of adoptions being made for genuine family formation. In these cases, families may be separated for the period that Phase 1 is in place. Families most impacted will be those in which the adoptive parents are New Zealand citizens or residents, and have	High	Low

	<p>adopted a child from a non-exempt countries. There are alternative pathways for these children to enter New Zealand (i.e., through the Family Court or by Ministerial discretion to citizenship and immigration applications). However, these pathways may not be timely or are uncertain.</p> <p>We do not know how many families/children may be impacted by these changes</p>		
Additional benefits of the chosen option compared to taking no action			
Children	<p>Children adopted overseas will be at a significantly lower risk of harm and exploitation through the adoption system.</p> <p>Pathways that have facilitated harm have been suspended or made harder to access where we cannot be certain that other countries' domestic adoption systems have sufficient safeguards in place.</p>	Medium-high	High
New Zealand citizens and permanent residents wishing to adopt overseas	<p>New Zealand citizens and permanent residents adopting from exempt countries can be confident that the pathways they are using are appropriate and safe.</p>	High	High
Government <i>The Ministry of Justice - courts</i>	<p>Changes to the Family Court jurisdiction aim to mitigate the impact of other changes by limiting the circumstances in which an adoption application can be considered by the Family Court.</p> <p>It is unclear how many people who would previously have used the section 17 pathway will attempt to adopt through the New Zealand Family Court.</p>	High	Medium
Government <i>Ministry for Business, Innovation and Employment</i>	<p>Immigration New Zealand may have fewer visa applications resulting from overseas adoptions to process.</p>	Low - medium	Low – medium

Government <i>Department for Internal Affairs</i>	DIA may have fewer citizenship by descent registrations resulting from overseas adoptions to process, although there is a lag between the date of the adoption order and when the application for citizenship by descent is made.	Low - medium	Low – medium
Government <i>Oranga Tamariki</i>	Oranga Tamariki may see fewer care and protection cases linked to overseas adoption cases.	Low - medium	Low – medium
s 6(a)			
Regulated groups	Nil.	Nil.	Nil.
Total monetised benefits	Nil.	Nil.	Nil.
Non-monetised benefits	Children adopted overseas will be at a significantly lower risk of harm and exploitation through the adoption system. s 6(a)	High	Medium

How was the proposal implemented?

89. Operational agencies have implemented the changes in the Bill:

- 89.1. The Ministry of Business, Innovation and Employment has made changes to the immigration instructions and application forms to reflect these changes, is updating internal guidance and assessment tools, and providing training to staff on these changes.
- 89.2. The Department of Internal Affairs identified the impact of the changes to internal policies and processes. Frontline staff were also made aware and were provided with support. No changes were required to processing systems.
- 89.3. Oranga Tamariki updated its relevant operational policies to ensure staff were prepared to handle cases according to the new law.
- 89.4. The Ministry of Justice communicated changes to relevant frontline court staff and contact centre staff on commencement. Changes were made to the court's case management system to track distinct international adoption applications received, for future reporting purposes. The adoption application form was

modified to capture information related to the residential status of the applicants and children. A new question was added to the form to capture the details of the exceptional circumstances where applicable.

90. MFAT also informed a small number of foreign governments of Cabinet's decision, immediately prior to introduction in the House. s 6(a)

How will the proposal be monitored, evaluated, and reviewed?

91. Specific ways agencies will be able to monitor Phase 1 are:
- 91.1. Changes to the court management system will mean that all section 3 applications under "exceptional circumstances" grounds are captured separately in data reporting.
 - 91.2. Changes to DIA forms to indicate and monitor the number of surrogacy cases
92. Any lessons from Phase 1 will be taken into the Phase 2 implementation. However, the temporary nature of Phase 1 means there will be limited time to evaluate their impact before Phase 2 changes are implemented.

Part 2B: Assessing enduring Phase 2 options to address the policy problem

What options are being considered?

93. As outlined in Section 1, the underlying problems arise at the intersection between the three regulatory systems: adoption, immigration and citizenship. To meet the project objectives and address the policy problems, any comprehensive option needs to be multifaceted and address specific areas across each system.
94. A cross-agency group of officials from Justice, MBIE, DIA, OT and MFAT developed a long list of options across the following areas:
- 94.1. **Legal recognition of overseas adoptions:** section 17 provides for the legal recognition of overseas adoptions through an administrative process, meaning there is no ability to scrutinise the appropriateness of the adoptive arrangements. Once recognised, the overseas adoption order can be relied on to confirm the existence of a legal parent-child relationship between the adoptive parent and child.
 - 94.2. **Citizenship and immigration settings for adopted people:** under the permanent settings, the legal parent-child relationship is the basis for immigration and citizenship entitlements. This means that a child adopted overseas, even by someone living in New Zealand, is often able to enter New Zealand as a citizen by descent or on a Dependent Child Resident Visa with no oversight over the safety of adoptive arrangements.
 - 94.3. **Verifying overseas adoption documentation:** The Adoption Act requires agencies undertaking the administrative recognition process to accept overseas adoption documentation at face value, in the absence of evidence to the contrary. This makes it very difficult for agencies to undertake steps to verify documents, even where there are suspicions of fraud.
 - 94.4. **Jurisdiction of the New Zealand Family Court in respect of international adoptions:** it is unusual for a court to have broad jurisdiction to make orders

affecting people living overseas, especially children who in most cases, are not New Zealand citizens or residents at the time. This is inconsistent with established international law principles of state sovereignty and international comity.

- 94.5. **Age limits:** while there is a risk of harm at any age, the type of harm may vary depending on the age of the child. For example, older children may be at greater risk of forced labour, while younger children are more vulnerable in other respects. Agencies initially considered a range of age limitations across adoption, citizenship and immigration settings. Age related changes were ruled out at an early stage as too broad in scope, as it was not feasible to target age limits to adopted children. Similarly, since age limits are set at the system level currently, any cross-cutting age changes in primary legislation would not be implementable. Further, while age may indicate a greater risk of harm, there may be many reasons why someone is adopted as an older child. Age changes would address only an overlapping segment of the group with the greatest risk – people living in New Zealand who adopt overseas with the intention of bringing the child back to New Zealand.
95. See **Appendix 2** for a brief summary of the interventions in each category that we considered and an explanation on why they were either selected for shortlisting or ruled out.
96. While identifying possible interventions, it became clear no single element could address all aspects of the problem and also meet the objectives. This could risk leaving gaps in the new framework **s 6(c)** even if other aspects are substantively addressed. For instance:
- 96.1. Completely stopping recognition of any overseas adoptions would address all aspects of the problem but would mean families may have to choose between not relocating or returning to New Zealand, or leaving adopted children behind.
- 96.2. Similarly, we could focus restrictions on overseas adoptions where the adoptive parent/s live in New Zealand, which poses the highest risk. However, without complementary changes to address citizenship and immigration settings, **s 6(c)** **s 6(a)**
- 96.3. **s 6(c)**
97. As the interventions only comprehensively address the criteria when considered as a complete package, we have assessed each package or framework as a single option. **Appendix 2** does include brief analysis of the isolated components.

Option One – Status Quo

98. For the purposes of options analysis, we refer to the “permanent settings” as the status quo. These are the regulatory settings that were in effect before the Adoption Amendment Act 2025 came into force. This is consistent with the context Phase 2 decisions will be made in, where taking no action will allow the permanent settings to revive when Phase 1 expires on 1 July 2027. The status quo is explained in further detail in Section 1.

Option Two – Continue Phase 1: permanent suspension of section 17 & limitations on Family Court’s adoption jurisdiction

99. Option Two includes:

- Stopping the recognition of all overseas adoptions by New Zealand citizens and residents for the purposes of citizenship and immigration, unless the adoption took place in a specified country that is exempt from the suspension; and
- Permanently limiting the Family Court’s adoption jurisdiction, so it can make adoption orders only in respect of adoptive parents and children who are ordinarily resident in New Zealand, unless:
 - exceptional circumstances apply; or
 - the application relates to an international surrogacy arrangement (pending the establishment of a standalone surrogacy regime).

100. Option Two is a permanent version of the Phase 1 changes. This allows the Phase 1 changes to be assessed against the criteria, as it was not possible to prepare a Regulatory Impact Statement on Phase 1 ahead of Cabinet decisions. It also enables agencies’ recommended option to be compared against both the permanent settings/pre-Phase 1 status quo, as well as the current settings at the time of preparing this Regulatory Impact Statement. Part 2A outlines the Phase 1 changes in more detail, but with temporary effect.

Exemptions list

101. Under Option 2, specific countries may be exempted if they have sufficient safeguards in their adoption system. This mitigates the impact of the changes when the adoption takes place in a jurisdiction where there are no concerns about their adoption system. Overseas adoptions made in exempt countries could be recognised for citizenship by descent or visa purposes.
102. While 86 countries are currently exempt under the Phase 1 temporary changes, the exemptions list may require further work to ensure the countries listed should remain exempt.
103. Phase 1 currently sets out the list of exempt countries in primary legislation (Schedule 1AAB, Adoption Act) with the ability to amend that through secondary legislation (by Order in Council). If this option were to progress with permanent effect in Phase 2, there would be an opportunity to make some minor legislative design changes to remove the need for secondary legislation to override primary legislation.

Option Three – Comprehensive Phase 2 proposal framework

104. Option Three provides a package of reforms:

- Permanently stopping the recognition of overseas adoption orders (made outside the Hague Convention process) for citizenship and immigration purposes where the adoptive parents live in New Zealand at the time of the adoption;
- Continuing to recognise safe overseas adoptions for immigration purposes where the adoptive parents do not live in New Zealand at the time of the adoption (i.e., New Zealand expatriates and migrants). Children adopted overseas by New Zealand citizens no longer gain citizenship by descent by operation of law;
- Establishing a proactive pathway to recognise adoptions from designated countries with appropriate child centred safeguards in place; and

- Limiting the adoption jurisdiction of the Family Court to circumstances where the adoptive parent/s and the child ordinarily reside in New Zealand, with limited exceptions.
105. Officials consider this framework to be one option, as the elements target different areas of the regulatory system, creating a comprehensive framework. It would not be possible to progress certain initiatives and not others as the framework would be deficient in one or more crucial area and therefore would not address the problem. Both the New Zealand Law Society and Mana Mokopuna were generally supportive of the intent behind the proposal framework, with some specific concerns which are referenced in the following sections. Other feedback will be considered through the drafting process.

Legal recognition of overseas adoptions

106. Option Three treats overseas adoptions differently for recognition purposes, depending on where the adoptive parent/s lived at the time of the adoption.
107. If the adoptive parent/s live in New Zealand at the time of the adoption:
- The overseas adoption order cannot be relied on for immigration purposes, unless the adoption order was made in a country designated by the Governor-General through Order in Council. This effectively prevents children being adopted with the intent to bring them to live in New Zealand without New Zealand's involvement or oversight.
 - The Governor-General may designate non-Hague countries by Order in Council, on recommendation of the Minister of Justice (or their delegate), in consultation with other relevant Ministers. The Minister may recommend a country for designation once satisfied that country has appropriate safeguards in its adoption process. This may take the form of a negotiated bilateral arrangement.
 - As these proposals do not impact on existing Hague processes, it will still be possible to adopt through the Hague Convention, where it applies. Hague Convention countries will not be eligible for designation under this proposal, as to do so would be inconsistent with our international obligations under the Convention. If exceptional circumstances apply, it may be possible to adopt through the New Zealand Family Court.
 - The adoption order may still be relied on for other purposes, including for example, for medical decision making to determine next of kin.
108. If the adoptive parents do not live in New Zealand at the time of the adoption, the overseas adoption may be relied on for all purposes, except citizenship by descent. This will allow New Zealand expatriates and migrants to have adoption orders made while living overseas recognised when moving to New Zealand with their adopted children.
109. Both the New Zealand Law Society and Mana Mokopuna were generally supportive of the designation pathway, subject to ensuring outcomes were in the best interests of the child and consistent with international obligations.

Citizenship and immigration settings for adopted people

110. Through targeted consultation, the New Zealand Law Society and Mana Mokopuna both emphasised the need to ensure any changes impacting citizenship by descent entitlements did not unnecessarily treat adopted children differently to natural born children or create gaps in the protection of children's rights. Engagement with stakeholders was not able to include s 6(a)

- s 6(a) This is likely to have impacted stakeholder feedback as in some places the reasons for proposals may not have been fully evident.
111. Overseas adoptions involving adoptive parents who live in New Zealand at the time of the adoption will not be able to be relied on for citizenship or immigration purposes (unless made in a designated country). These adoptions are considered higher risk, given they are not made in line with the appropriate safeguards in other pathways (i.e., the Hague Convention and Family Court), and in some cases may be made s 6(a)
112. Mana Mokopuna supported this change.
113. Children adopted overseas from non-designated countries by adoptive parent/s who live in New Zealand would be unable to enter and live in New Zealand on the basis of the adoption as they are:
- Not entitled to citizenship by descent; and
 - Unable to rely on the parent-child relationship created by an overseas adoption to obtain a visa based on the parent-child relationship.
114. However, children adopted from designated countries by adoptive parent/s who live in New Zealand would be able to enter New Zealand, as the adoption would be recognised for immigration purposes. These are low risk adoptions as we are satisfied that the country has appropriate safeguards in their adoption process, as confirmed through the formal designation process.
115. Overseas adoptions involving adoptive parents who do not live in New Zealand are treated differently, given the lower risk profile of the adoptions. Adoptive parents who live overseas and adopt in that country are more likely to have followed processes consistent with the domestic requirements, with authorities having more availability to information on the suitability of the adoptive parents.
116. s 6(a) this option:
- Removes any automatic entitlements to citizenship by descent resulting from adoptions made overseas and recognised under the Adoption Act;
 - Requires all children adopted overseas to enter New Zealand through the immigration system; and
 - Retains the ability for a child adopted overseas to be granted citizenship once in New Zealand, subject to meeting the usual criteria set by the Minister of Internal Affairs.
117. Mana Mokopuna expressed caution about continuing to recognise overseas adoptions involving expatriates and new migrants through the immigration system. Its submission also raised concerns about the risk of statelessness.
118. Entry to New Zealand through the immigration system provides an opportunity to introduce greater scrutiny to ensure adoptive arrangements are safe. These could include introducing new checks of adoptive parents' character to establish there are no concerns related to the child's safety and checking that the adoption does not have indicators that it is for citizenship or immigration purposes. As visa requirements are set out in the Immigration Instructions, these checks would be developed as part of the implementation process and do not require legislative change (see Section 3).
119. s 6(a)

Verifying overseas adoption documentation

120. Interventions to enable verification of overseas adoption documentation apply across both problems (harm s 6(a) as where fraudulent documentation is relied on to bring a child to New Zealand, the child may be at greater risk of abuse, neglect or exploitation).
121. This option also enables agencies such as Immigration New Zealand (INZ), to scrutinise or validate adoption documentation without first requiring explicit evidence of fraud.

Jurisdiction of the New Zealand Family Court in respect of international adoptions

122. As this option significantly limits opportunities for overseas adoptions to be recognised for the purposes of bringing a child to New Zealand, there is a risk that some of those affected adoptions result in an increase in applications for adoptions through the Family Court. Any increase in applications has a direct impact on court timeliness, which is already a concern in the Family Court.
123. This option mitigates this risk, and addresses existing concerns about the unusually broad jurisdiction of the Family Court by:
 - Only enabling the Family Court to make adoption orders relating to adoptive applicants and children ordinarily resident in New Zealand, except:
 - If exceptional circumstances apply, and at least one of the adoptive applicants or the child is ordinarily resident in New Zealand; or
 - The adoption application relates to an international surrogacy arrangement.
124. The submitters had different views on the jurisdiction of the Family Court. The New Zealand Law Society indicated it was important to retain a pathway where neither the child, nor the adoptive parent were ordinarily resident in New Zealand. Its submission also highlighted the importance of balancing the risks of adopting from unsafe countries with best interests of children and enabling the Family Court to still make adoption orders in situations, for example, where the only suitable carer for the child is an adult relative in New Zealand.
125. Mana Mokopuna supported this proposal and emphasised the need for exceptional circumstances to be a high threshold, focussed on children's rights to ensure it does not become a routine pathway that undermines the intent of the reforms.
126. The exceptional circumstances test is intended to be a high bar that very few applications will meet. While the determination will be subject to judicial discretion, such circumstances could include where the child's parents are permanently unable to care for them, and the only viable caregivers are relatives ordinarily resident in New Zealand.

Key for qualitative judgements:	
++	much better than the status quo
+	better than the status quo
0	about the same as the status quo
-	worse than the status quo
--	much worse than the status quo

How do the options compare to the status quo/counterfactual?

	Option One – Status Quo	Option Two – Continue Phase 1	Option Three – Comprehensive Phase 2 framework
Children’s well-being and rights	0 <ul style="list-style-type: none"> Natural born and adopted children have the same entitlements to citizenship by descent and visas when born overseas. Overseas adoption pathway allows safeguards in our regulatory systems to be bypassed, enabling streamlined entry into NZ for children –can be both positive in safe adoptions, but has also led to exploitation, abuse and harm to some adopted children. Family Court can make orders in respect of adoptive parents and children outside of NZ – may support best interests of children if adopted into safe families, but if adoptive parent or child lives overseas, Family Court may not have all relevant information to hand to determine their appropriateness e.g., Police records. 	+	++ <ul style="list-style-type: none"> Decreases access to adoption pathway being used to exploit, abuse and harm some children. Targeted restriction on recognising overseas adoptions to the highest risk adoptions (NZers who travel overseas to adopt), meaning safe adoptions (incl. by NZ expats) can still be recognised, mitigating over-capture risk and decreasing harm. May discriminate against adopted children by giving them different citizenship entitlements and immigration pathways to non-adopted children, but likely justifiable given risk of harm. Retain flexibility for Family Court to make adoption orders in exceptional cases where one of the parents or child lives in NZ. Designation pathway will enable overseas adoptions involving people living in NZ where child safeguards are in place.
Fit for purpose	0 <ul style="list-style-type: none"> Allows families to form overseas and move to NZ together but also enables same pathway to be used by people living in NZ who travel overseas for the purpose of adopting. In some cases, these adoptions result in significant harm to the child. Automatic citizenship by descent and entitlements to visas create risks to integrity of immigration systems s 6(a) 	+	++ <ul style="list-style-type: none"> Allows families to form overseas and move to NZ together, while preventing people living in NZ from travelling overseas to adopt and circumvent safeguards in regulatory systems. Designations may amount to discrimination on grounds of national origin. Likely justified as countries will only be designated once we are confident there are sufficient safeguards that will prevent harm to children. Flexibility for Family Court to make adoption orders where one of the parents or child lives in NZ in exceptional cases. Single point of entry for children adopted overseas through immigration system s 6(a)
Feasibility	0 <ul style="list-style-type: none"> Administrative process to recognise overseas adoptions is facilitated by agencies such as INZ and DIA and is operationally straightforward. No scope to investigate where fraud suspected (in the absence of proof to the contrary). Low numbers of Family Court adoptions, given high numbers of overseas adoptions recognised through s 17. 	-	+
Jurisdictional scope & international comity	0 <ul style="list-style-type: none"> Recognition process for overseas adoptions is consistent with international law principles as it does not inquire into the appropriateness of other state’s decision Family Court can make orders about people living outside New Zealand, including non-NZ citizens or residents. May be inconsistent with international law principles. s 6(a) 	+	++ <ul style="list-style-type: none"> Consistent with international law principles as it does not inquire into the appropriateness of other state’s decisions but instead limits the impacts of those decisions in New Zealand. Family Court only able to make adoption orders in exceptional circumstances where at least one adoptive parent or the child lives in New Zealand - consistent with international law principles. s 6(a)
Overall assessment	0	+	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

127. Officials consider that Option Three (a comprehensive Phase 2 framework) is preferable to either upholding the status quo (Option One) or a permanent version of the Phase 1 changes (Option Two).
128. This is because Option Three:
- Comprehensively addresses all aspects of the problems by:
 - mitigating risks of harm to children, without over-capturing safe adoptions to the extent of Option Two; and
 - addressing risks to the integrity of the immigration system ^{s 6(a)} by removing the automatic entitlement to citizenship by descent for all adopted children and introducing new immigration checks. These are not part of Option Two, given Phase 1 was not developed with these problems as a primary focus.
 - Is more feasible than Option Two as an enduring solution, as the designation pathway is less administratively burdensome and diplomatically complex to maintain than the more fulsome exemptions list, which may also be less agile to respond to changing circumstances.
 - Is likely to engage the same rights under the New Zealand Bill of Rights Act 1990 as Option Two, but the limitation of these rights is more easily able to be justified for Option Three than Option Two. This is because Option Three more narrowly targets higher risk adoptions and the differential treatment between different countries is limited to a smaller group of countries.
 - For example, in Option Two, the entitlement to citizenship by descent is given based on national origin (whether the country is exempt or not). In comparison, for Option Three, citizenship by descent is not available for any adoptions recognised through the overseas adoption pathway, regardless of whether the country is designated or not. This means adopted and natural born children are treated differently, but there is less differential treatment within that affected group. This addresses the citizenship concerns raised through targeted consultation.
 - Is more consistent with international law principles, due to slightly less jurisdictional overreach through section 3 changes.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

129. Yes. Officials' preferred option was jointly agreed to by the Associate Minister of Justice, who holds responsibility for adoption work, the Minister of Internal Affairs and the Minister of Immigration.
130. These proposals are reflected in the Associate Minister of Justice's Cabinet Paper.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Children	<p>Adopted children by New Zealand citizens living overseas will not be able access citizenship by descent.</p> <p>Children adopted overseas by people living in New Zealand will no longer be able to access citizenship or immigration pathways, unless the adoption occurred in a designated country.</p>	Medium	<p>High</p> <p>The proposal takes these pathways away from children in certain circumstances.</p>
New Zealand citizens and permanent residents wishing to adopt overseas	<p>New Zealand citizens living abroad wishing to adopt, or who have already adopted, a child overseas who would have previously received citizenship by descent will now have to apply for a dependent child visa to bring their child to NZ if their adopted child is eligible, which is more costly.</p> <p>If NZ citizens or permanent residents living in New Zealand wish to adopt from overseas, they may no longer be able to do this unless the country is designated or they use an approved pathway (i.e. the Hague Convention or the New Zealand Family Court, subject to exceptional circumstances applying).</p>	<p>High</p> <p>Potentially \$3,086 per adopted child.</p> <p>Children’s passport applications cost \$144.</p> <p>Dependent Child Resident Visa applications start from \$3,230.</p>	<p>Medium - high</p> <p>We expect numbers of visa applications to drop significantly compared to the number of applications for citizenship by descent following an adoption.</p>
Government <i>The Ministry of Justice – courts</i>	<p>There may be additional adoption applications in the family court where one or either of the adoptive parents or child do not live in New Zealand.</p> <p>Modelling indicates that a low estimate would see an additional 30 cases, and a high estimate of 70 additional cases (assuming between 10-75% of overseas adoptions recognised</p>	<p>Medium</p> <p>Total between \$32,992 - \$83,983 per year</p> <p>Between \$30,900 - \$79,101 costs for lawyer to assist the court.</p>	<p>Low- medium.</p> <p>It is unclear how many people who would previously have used the section 17 pathway will attempt to use the NZ family court.</p>

Affected groups	Comment	Impact	Evidence Certainty
	<p>annually under section 17 prior to Phase 1 instead apply to the Family Court). A lawyer to assist the court is typically appointed in 20.8% of cases.</p> <p>An interpreter is required in approximately 8.1% of adoption cases.</p>	<p>Between \$2,092 and \$4,882 for interpreter costs.</p> <p>Between 13 and 30 additional sitting days required (between <0.1 and 0.2 of a Judge's FTE).</p>	
<p>Government - <i>Ministry for Business, Innovation and Employment</i></p>	<p>MBIE will likely face additional applications for dependent child visas for children under 14. They will also implement increased scrutiny over these applications, which will increase the processing burden and times. MBIE operates a cost recovery model for visa applications. Should the costs increase, it is likely they will be passed on to applicants.</p> <p>There may be an increase in applications for exercise of Ministerial discretion immigration entitlements.</p>	<p>High</p> <p>It is too early to indicate costs that MBIE may face as a result.</p>	<p>Medium – High</p> <p>Increased scrutiny of applications for visas based on an adoptive parent-child relationship will cost more.</p> <p>It is unclear how many applications for ministerial discretion there will be, and therefore what the cost might be.</p>
<p>Government - <i>Department of Internal Affairs</i></p>	<p>There may be an increase in applications for exercise of Ministerial discretion for citizenship by grant under section 9(1)(c) of the Citizenship Act. DIA may need to develop new policies and processes for any additional items which should be considered in any assessment where an overseas adoption has occurred.</p>	<p>Low</p>	<p>Low - medium</p> <p>It is unclear how many applications for ministerial discretion there will be, and therefore what the cost might be.</p>
<p>Government - <i>Oranga Tamariki</i></p>	<p>There will be an increase in the number of requests by the Family Court for social worker reports under section 10 of the Adoption Act 1955 modelled by the Ministry of Justice as between 30-70 applications per year. Previous analysis by</p>	<p>High</p> <p>Total between \$123,845 and \$288,971 per year.</p> <p>OT adoption service costs between</p>	<p>Low - medium</p> <p>It is unclear how many people who would previously have used the section 17 pathway will attempt to use the NZ family court, and therefore how many</p>

Affected groups	Comment	Impact	Evidence Certainty
	<p>Oranga Tamariki indicates that home study assessment for intercountry adoptions takes between 25-40 hours but can sometimes be much more depending on the circumstances of the case. The salary mid-point for an Adoptions Social Worker is \$97,557.</p> <p>There will also likely be an impact on Oranga Tamariki Legal Services of approximately 10 hours per case.</p> <p>There will also be an impact on Oranga Tamariki legal services in advising on the new legislation and associated court appearances- approximately 10 hours per case.</p> <p>There may be further costs depending on which countries are designated and how the designation process works. If a country with a high number of anticipated adoptions is designated, the cost will be significantly higher.</p> <p>The visa scrutiny process may also have flow on cost implications.</p>	<p>\$99,840 and \$232,960.</p> <p>OT legal service costs between \$24,005 and \$56,011.</p> <p>Total OT resource cost (inclusive of above) 1.02-2.38 FTE.</p>	<p>additional social worker reports will be requested under section 10.</p> <p>Countries have yet to be formally designated. It's unclear how many applications might be received under a designated country pathway, which could significantly increase the need for OT adoption services.</p>
s 6(a)			
Regulated groups	<p>Changes to citizenship, immigration and adoption law will impact professions including lawyers and immigration advisors through understanding new legislative settings, and potential increased workload.</p> <p>Changes may exacerbate current workforce challenges for lawyer for child and lawyer to assist the court if more cases go through the Family Court.</p>	Medium	Medium Unclear on the number of applications for immigration entitlements or to the family court requiring the appointment of lawyer for child or lawyer to assist the court.

Affected groups	Comment	Impact	Evidence Certainty
Total monetised costs	There will be costs for the Ministry of Justice and Oranga Tamariki primarily, with additional costs falling on people needing to use the immigration system to bring a child adopted overseas to New Zealand instead of applying for a passport following automatic conferral of citizenship.	Medium Between \$156,837 and \$372,954 per year plus \$3,086 per visa application for those applying for a visa instead of passport.	Low - medium
Non-monetised costs	Children adopted overseas will no longer be able to access citizenship by descent. Some costs are yet to be established where decisions remain on the design and implementation of the new immigration system checks.	Medium	Medium
Additional benefits of the preferred option compared to taking no action			
Children	Adopted children will be at a significantly lower risk of harm through the adoption system.	High	High Known pathways that have facilitated harm will be closed. System wide approach aimed at closing loopholes.
New Zealand citizens and permanent residents wishing to adopt overseas	New Zealand citizens and permanent residents wishing to adopt overseas can be more confident that pathways are appropriate and safe.	High	High Known pathways that have facilitated harm will be closed. System wide approach aimed at closing loopholes.
Government <i>The Ministry of Justice – courts</i>	The changes to the Family Court’s jurisdiction (paras [122 – 126]) aim to mitigate the impact of changes in the other proposals to the Family Court by limiting the circumstances in which an application can be made to the Family Court to recognise an overseas adoption for immigration purposes.	High	Medium It is unclear how many people who would previously have used the section 17 pathway will attempt to use the NZ Family Court.
Government <i>Ministry for Business, Innovation and Employment</i>	There will be improved integrity to the immigration systems.	High	High

Affected groups	Comment	Impact	Evidence Certainty
Government <i>Department of Internal Affairs</i>	There will be improved integrity of the citizenship system.	High	High
Government <i>Oranga Tamariki</i>	Oranga Tamariki may see fewer care and protection cases linked to overseas adoptions.	High	High We anticipate fewer children will come to harm under the new international adoption settings
s 6(a)			
Regulated groups	A clear, enduring framework will provide clarity for the relevant professional groups.	Medium	High
Total monetised benefits	Nil.	Nil.	Nil.
Non-monetised benefits	Adopted children will be at a significantly lower risk of harm through the adoption system. s 6(a)	High	High

Section 3: Delivering an option

How will the proposal be implemented?

131. Some of the changes implemented in Phase 1 will be streamlined under Phase 2. Operational agencies will implement these proposals:
- 131.1. Justice will implement changes to the courts management system to further capture ‘exceptional circumstances’ to enable monitoring and evaluation. Changes will also be communicated to the judiciary and to front-line court staff. There may need to be further refinements to changes made to court forms related to the residential status of the applicants and child, and any exceptional circumstances. While we do not anticipate any direct upfront costs for Phase 2, costs of these changes will be felt through potential increases in applications to the Family Court. This could either be costed through the appointment of additional Judges or a reduction in court timeliness.
 - 131.2. DIA will need to update citizenship resources, policies and will need to undertake minor process changes.
 - 131.3. Further work is still required to understand implementation requirements for Immigration New Zealand (INZ), although most immigration changes do not require legislative amendment. It’s likely these would include:
 - which visas and parent-child situations will be covered (noting the intention is to apply additional scrutiny to visa applications which could lead to the child remaining in New Zealand indefinitely);

- how these assessments would be conducted by INZ, including what is within INZ's ability to assess and what will require input from other agencies. This will also consider what factors may indicate child safety concerns or a non-genuine adoption, evidence requirements, and enabling INZ to make appropriate visa decisions based on such factors; and
 - how to best implement the proposal that all children adopted overseas will need to enter New Zealand through an immigration pathway, with consideration of operational limitations.
- 131.4. The cost of these changes for Oranga Tamariki will be felt through potential timeliness in the provision of social worker reports to the Family Court. The numbers of reports requested may increase, as the combined effect of the proposals may lead to more adoption applications in the Family Court. This could be costed through the funding and appointment of additional social workers and legal advisors, or a reduction in timeliness of section 10 reports (which could have a resulting impact on court timeliness).
- 131.5. Oranga Tamariki is likely to have a role in the provision of care and protection checks and other information to INZ in relation to Dependent Child visa applications involving children adopted overseas. This is likely to have some resource impact for Oranga Tamariki. However, impact has not been assessed as officials are still working through how this will be operationalised, what level of information will be required from Oranga Tamariki, and how many applications will be received.
- 131.6. There will be resource implications associated with Oranga Tamariki's participation in related work that is running in parallel to the Phase 2 legislative changes. This work includes:
- s 9(2)(f)(iv)
 - negotiating future bilateral arrangements involving adoption.
- 131.7. Oranga Tamariki anticipates that this work can be resourced within baseline funding or through the reprioritisation of resource.
132. s 6(a)

How will the proposal be monitored, evaluated, and reviewed?

133. Operational agencies will monitor the impact of the changes.
- Justice will use the new functionality that was added to the court management system to monitor the number of section 3 applications under 'exceptional circumstances' linked to international adoption for reporting purposes.
 - Justice will continue more general monitoring including the number of adoption applications in the Family Court, the average age of an adoption application at disposal, and timeliness of all proceedings in the Family Court.

- MBIE/INZ will monitor the number of applications for dependent child visas as a result of an international adoption
- DIA will monitor the number of citizenship by descent applications following an overseas adoption as there can be a lag between the granting of the order and citizenship being registered, and citizenship by grant requests as a result of an international adoption.
- Oranga Tamariki will continue to monitor the number of care and protection cases where the child was adopted overseas.

Is a review of the regulatory system planned, which could include an evaluation of the new arrangements for this proposal?

134. As the administering agency for the Family Court Act 1980 and the Adoption Act, the Ministry of Justice has regulatory stewardship responsibilities in respect of adoption law, as well as the Family Court more generally. Consistent with our stewardship responsibilities, the Ministry has regular meetings with the judiciary and other stakeholders (including the Family Law Section of the New Zealand Law Society). These meetings provide a forum to receive feedback on how these systems are operating in practice, and for concerns or pressure points to be raised and addressed.
135. Beyond our stewardship responsibilities, Phase 2 is intended to be an enduring solution for international adoptions, and no further review of the system is planned at this time.
136. No further reviews are planned for the citizenship and immigration regulatory systems as they interact with international adoption at this time.
137. The Improving Arrangements for Surrogacy Bill is currently before the Health Committee and due to report back in December 2025. If it progresses, the surrogacy exception to the Family Court's adoption jurisdiction will no longer apply as this will be covered by standalone surrogacy regime. We consider this would be beneficial.

Appendix 1: Citizenship by descent applications and dependent child resident visa applications as a result of adoptions by New Zealand citizens or permanent residents

Table 2: Children who acquired New Zealand citizenship by descent following an overseas adoption 2018-2025, by the top 10 countries (by volume) where the adoption took place.¹⁶

Country of adoption	2018	2019	2020	2021	2022	2023	2024	2025 ¹⁷	Total
Samoa	618	563	668	342	360	418	365	109	3443
Kiribati	s 9(2)(a)	24	16	7	19	57	45	30	s 9(2)(a)
United Kingdom	15	14	6	10	10	15	7	7	84
United States of America	6	15	24	14	6	s 9(2)(a)			76
Tuvalu	6	s 9(2)(a)		s 9(2)(a)		10	6	7	34
Tonga	6	7	s 9(2)(a)			8	s 9(2)(a)		32
Democratic Republic of the Congo	.	.	s 9(2)(a)	.	s 9(2)(a)	6	13	.	22
Fiji	7	s 9(2)(a)						.	22
Republic of the Congo	s 9(2)(a)	14	s 9(2)(a)	20
Canada	s 9(2)(a)				s 9(2)(a)				17

Table 3: Volumes of Dependent Child Resident Visa applicants who were adopted in a New Zealand recognised adoption, by the top 5 nationalities and worldwide total (2020-2024)

Year	2020	2021	2022	2023	2024
1st	Samoa (198-397)	Samoa (238-476)	Samoa (285-570)	Samoa (257-513)	Samoa (267-537)
2nd	Kiribati (22-44)	Kiribati (13-26)	Kiribati (10-19)	Kiribati (33-66)	Kiribati (49-98)
3rd	Ethiopia (13)	Tonga (<=7)	Tuvalu (6-12)	Philippines (9-17)	Tuvalu (15-30)
4th	Philippines (5-10)	s 9(2)(a)	Philippines (5-9)	Tuvalu (7-14)	Philippines (6-11)
5th	Tonga (<=6)	s 9(2)(a)	s 9(2)(a)	India (<=8)	Tonga (5-10)
Worldwide Total	274-508	272-532	324-635	345-659	369-716

¹⁶ This data was extracted by the Department of Internal Affairs on 2 June 2025 and may differ from previously retrieved data.

¹⁷ 2025 data was extracted on 2 June and only represents applications received for citizenship by descent before 2 June.

Appendix 2: Phase 2 long list of interventions

Intervention	Will the intervention address the problems? If so, how?	Risks	Included in preferred option? Why/why not?
Legal recognition of overseas adoptions			
Split recognition of overseas adoptions into two separate components: <ul style="list-style-type: none"> Domestic or 'parentage' rights (e.g., medical decisions, succession rights) would remain 'automatically' recognised; and Other rights (citizenship and immigration criteria) which would require separate process. 	Yes (partially), removes incentive to adopt overseas to obtain immigration and citizenship rights (assuming paired with complementary changes to citizenship and Immigration). Does not address risks to immigration s 6(a)	Depends on how this is implemented – may add additional complexity for adoptive parents to navigate if split into two sections/processes. If the split is largely administrative, no significant risks in this proposal itself.	Yes - alongside complementary changes to citizenship and immigration.
Stop recognising all overseas adoption orders made through another state's domestic legal system.	Yes (fully), the risks eventuate as a result of recognising overseas adoptions outside of approved, safe processes. By stopping this pathway altogether, these risks are fully addressed.	Highly likely to over-capture safe adoptions and create unintended consequences. Significant risk of capturing a lot of safe adoptions.	No – although straightforward to implement and would address the problems conclusively, it would be inconsistent with policy objectives. It is in the best interests of children in many cases to recognise overseas adoptions, e.g., enabling a family formed overseas through adoption to migrate together to take up a job offer
Stop recognising all overseas adoption orders made through another state's domestic legal system involving New Zealand citizens and residents.	Yes (partially), would stop most high-risk adoptions (by people living in NZ who travel overseas to adopt) but there is no pathway for families who adopt while living overseas to come to live in NZ as a family.	More likely to over-capture safe adoptions, such as those involving NZ expatriates who formed families while living overseas and later wish to return to NZ with adopted child.	No – although central to Phase 1 changes due to ease of implementing quickly, this was not included in our preferred Phase 2 option given the risk of over-capture.
Stop recognising overseas adoption orders if the adoptive parents were living in New Zealand at the time of the adoption.	Yes (partially), would enable us to distinguish between higher risk adoptions while continuing to recognise adoptions that may be in the best interests of the child.	Depends on test used to determine if someone "lives" in New Zealand – feasibility risks if reliant on discretionary or common law tests while managing high volumes. May not address the underlying incentive to utilise the adoption system to circumvent the immigration system.	Yes – in combination with immigration and citizenship changes to address other aspects of the problems.
Stop recognising overseas adoptions, except those made in countries with sufficient safeguards.	Yes (partially), distinguishes between higher and lower risk adoptions, while accounting for the importance of specific bilateral relationships.	Risks to international relationships with countries who are not recognised as having sufficient safeguards. Possible claims of discrimination on basis of national origin. Doesn't address using international adoption to bypass NZ's citizenship and immigration rules within countries with sufficient adoption safeguards.	Yes – as an exemptions list in Phase 1, and a designation process with a higher threshold in Phase 2.
Replace the administrative recognition of overseas adoptions with an active decision-making process. The applicant would be required to show the adoption was consistent with certain criteria before it could be recognised.	Yes (partially), would ensure all adoptions recognised in NZ are safe and meet consistent criteria. Doesn't address using international adoption to bypass NZ's citizenship and immigration rules.	Likely exceeding jurisdictional scope and state sovereignty – perception of overreach to relitigate decisions made by overseas courts. Significant administrative burden on parents, uncertainty for the child, and costs in administering the new regime. Likely to be over-regulation outside of the risk areas of immigration and citizenship, for example for adopted persons temporarily in NZ. Likely significant cost to Courts/OT.	No – costly to implement, administratively burdensome to operationalise and inconsistent with international law principles. Preferred option addresses same aspects of problems with alternative options.
Citizenship and immigration settings for adopted people			
Only confer citizenship by descent on natural born children who are born overseas and require children adopted overseas to enter New Zealand via an immigration pathway.	Yes (partially) – could reduce risk of harm to children, but may also disadvantage children adopted overseas by making it harder than the status quo to enter NZ (which may be in the child's interest, even if circumventing immigration pathways for education purposes etc.)	Would treat adopted and natural born children differently.	Yes – feasible to implement, subject to volume of expected applications (needs to be paired with some level of discretion/risk targeting).

Intervention	Will the intervention address the problems? If so, how?	Risks	Included in preferred option? Why/why not?
Introduce new bespoke visa category for children adopted overseas.	Yes (partially), consistent with Australian approach and provides opportunity to target scrutiny to adoption related visas. Could reduce risk of harm to children. Would also require changes to citizenship by descent to comprehensively address problems.	Less flexibility & risk of over-capturing safe adoptions (not all overseas adoptions require the same level of scrutiny). May be unnecessarily burdensome for expatriates etc.	No – while consistent with Australian approach, would not be feasible from an immigration perspective s 6(a)
Introduce new bespoke citizenship category for children adopted overseas with checks against adoptive parents.	Yes (partially), likely to reduce risk of children being brought to NZ and coming to harm through adoption pathways. s 6(a)	Will need to ensure any test is consistent with New Zealand’s jurisdiction and does not (and is not perceived to) look behind the decision making of another court.	No – not feasible from a citizenship perspective – significant costs associated with developing, implementing and administering a new category.
Introduce character/suitability checks of adoptive parents ahead of registering child’s citizenship by descent.	Yes (partially), provides an avenue to check the character of the adoptive parents before they are able to bring the child to NZ on an NZ passport. Would still require similar change to immigration pathway.	Would treat adopted and natural born children differently, but for the purpose of upholding the best interests of the child and mitigating the risk of children ending up in harmful situations in NZ.	No – not feasible as citizenship by descent is an automatic legal entitlement at the time the overseas adoption is made. Introducing any checks ahead of registering citizenship would be a significant policy departure from the current citizenship by descent category.
Limitation period between overseas adoption and registering citizenship by descent (e.g., two years to register citizenship after adoption order is made).	No – data on the time passed between adoption and registration of citizenship indicates that higher risk adoptions may be more quickly registered than lower risk ones. This is unlikely to address the problems and may create barriers for lower risk adoptions.	Risk of creating new barriers for registering citizenship. It is contradictory to encourage people to register citizenship faster, when a delay between adopting and registering may indicate that the parents adopted children overseas without any intention to bring the child to live in New Zealand.	No – not feasible as citizenship by descent is an automatic legal entitlement that is given at the time the overseas adoption is made. While registration through DIA is required to obtain a passport, the registration process does not impact on whether someone is actually a citizen or not.
Implement additional immigration checks on visa applications involving children adopted overseas. These may include scrutiny over adoptive parents, even where the child is the primary applicant.	Yes (partially), provides an avenue to check the character of the adoptive parents before they are able to bring the child to NZ. This would likely mean people with a history of violence towards children are unable to bring a child into NZ.	Moving to NZ may have been in the benefit of the child and they may not ever come to harm, but are barred after a character check (e.g., adoptive parent has violent history). Justified given impact is based on relevant evidence.	Yes – though immigration feasibility is subject to volume of expected applications (needs to be paired with some level of discretion/risk triaging).
Jurisdiction of the New Zealand Family Court in respect of international adoptions			
Limit the adoption jurisdiction of the Family Court to adoptions where both the adoptive parents and child live in New Zealand, except in exceptional circumstances, or where the adoption relates to an international surrogacy arrangement.	Yes (partially) – if combined with interventions to limit the recognition of overseas adoptions, would prevent those adoptions being pushed into the Family Court en masse.	Feasibility risks around exceptional circumstance test, s 6(c)	Yes – to support changes to recognition of overseas adoptions. Mitigates risk of influx of applications to Family Court and also addresses concerns about broad jurisdiction of Family Court.
DNA testing to prove alleged relationship between adoptive parent and child when the rationale for adoption is reliant on a familial relationship between the adoptive parent and child .	Yes (partially) – would require broader changes to address problems. This only addresses part of the issue around circumventing immigration.	Engages rights – would require clear guidelines on collection and use of DNA, particularly involving children.	TBC – further work required.
Introduce a Hague based test for applications to the Family Court. This could require the court to consider factors before making an adoption order, including, whether the application is child-centred and in the child’s best interests.	Yes (partially) – would address risk of harm to children and circumvention of immigration system, where applications are being made to Family Court. Would need to be included alongside other changes to address overseas adoptions.	Risks of perception of looking behind other court orders (not consistent with international law principles).	TBC – further work required.

Intervention	Will the intervention address the problems? If so, how?	Risks	Included in preferred option? Why/why not?
Verifying overseas adoption documentation			
Shift the onus onto the applicants for citizenship or immigration to provide evidence that an international adoption relied upon is valid before it is recognised for the purpose of the relevant application (e.g. require documents to comply with apostille convention or other authentication tests).	Yes (partially) – doesn’t directly address any aspects of the problems, but fraud in an application may indicate the adoption is not in the best interests of the child.	While fraud in an application may signal greater concerns for child’s wellbeing in adoptive arrangements, there is also a disproportionate burden on all adoptive parents.	No – risks outweigh any benefits. Opted for alternate intervention to identify fraud in preferred option.
Improve information sharing between agencies to identify fraudulent international adoption orders when considering immigration and citizenship matters	Yes (partially) – doesn’t directly address any aspects of the problems, but fraud in an application may indicate the adoption is not in the best interests of the child.	No identifiable risks but information sharing would need to be coupled with range of interventions targeting problems once fraud confirmed to have any effect.	No – operational work on this intervention progressing separately.
Enable agencies to take steps to verify the authenticity of adoption documentation where there is suspicion of fraud, rather than first requiring proof of fraud.	Yes (partially) – doesn’t directly address any aspects of the problems, but fraud in an application may indicate the adoption is not in the best interests of the child.	To be feasible, would need other interventions to action findings of fraud, as well as other safeguards in the system to prevent circumvention of immigration system.	Yes – most feasible option for fraud verification, consistent with objectives with least consequential impact/barriers on safe adoptions.
Age limits			
Decrease age eligibility for conference of citizenship by descent on adoptive child (currently under 14 at the time of the adoption).	Yes (partially) - reduces incentive for using adoption to bypass citizenship requirements.	Major gaps for those below the new threshold – doesn’t address risks to adoptive children’s wellbeing nor address the issue that an international adoption is used as a mechanism to bypass our citizenship rules.	No – age limit options ruled out after long listing due to lack of feasibility (see discussion in para 94.5).
Review and align ages of eligibility for an adoptive child to obtain certain rights across all relevant regulatory systems.	No – unlikely on its own to address the problem but may have an impact if the review results in the ages of eligibility lowering.	If reduced below age in UNCROC, could be inconsistent with international obligations. If kept high, may increase other ages (e.g., for citizenship by descent) which could increase the risks of harm and circumventing immigration problems.	No – age limit options ruled out after long listing due to lack of feasibility (see discussion in para 94.5).
Introduce a maximum age for the adopted child (at the time of the overseas adoption was made) for recognising the overseas adoption.	Yes (partially) – closes off an avenue for older people using international adoption to bypass immigration and citizenship settings. This is the group that creates the greatest risk to the integrity of the immigration system.	Major gaps for those under 18 while being much broader than necessary to target the key risks if amending the Adoption Act.	No – age limit options ruled out after long listing due to lack of feasibility (see discussion in para 94.5).
Lower age for dependent child category visas (currently 19 for temporary or 24 for residence class).	Yes (partially) – depending on age reduced to, may slightly reduce incentives and close off avenue to use adoptions for immigration purposes.	Risk of over-reach for adoptive families where there are no safety concerns. Would remove dependent child pathway.	No – age limit options ruled out after long listing due to lack of feasibility (see discussion in para 94.5).