

Adult Adoption Information Act 1985

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Note

This Act is administered in the Ministry of Justice

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

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

1 Short Title and commencement

- (1) This Act may be cited as the Adult Adoption Information Act 1985.
- (2) Sections 4 to 6, 8, and 9 of this Act shall come into force on the 1st day of September 1986.
- (3) Subject to subsection (2) of this section, this Act shall come into force on the 1st day of March 1986.

2 Interpretation

In this Act, unless the context otherwise requires,—

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

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

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

- (a) Having consented to an adoption by a spouse; or
- (b) Having become the spouse of an adoptive parent after the adoption concerned:

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

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

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

Birth parent, in relation to any other person, means a person who is that other person's biological mother or father

Chief executive means the chief executive of the Department

Chief executive: this definition was inserted, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Department means the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989

Department: this definition was substituted, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82).

Director-General*[Repealed]*

Director-General: this definition was repealed, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82).

[Repealed]

Identifying information, in relation to any person, means that person's name or address; and includes any information that is likely to enable any other person to ascertain that person's name or address

Original birth certificate, in relation to any person, means a birth certificate (within the meaning of the Births, Deaths, and Marriages Registration Act 1995) containing information recorded under that Act or a former Act (within the meaning of that Act) relating to the person's birth, bearing on its face the words "ISSUED FOR THE PURPOSES OF THE ADULT ADOPTION INFORMATION ACT 1985"; and includes any such certificate from which there have been omitted, in accordance with this Act, any details relating to either or both of the person's birth parents

Original birth certificate: was substituted, as from 1 September 1995, by section 95 Births, Deaths, and Marriages Registration Act 1995 (1995 No 16).

Registrar-General means the Registrar-General appointed under the Births and Deaths Registration Act 1951

Social worker means a social worker employed as such under Part 5 of the State Sector Act 1988 in the Department; and,

in relation to any matter undertaken by one social worker, includes any other social worker dealing with that matter.

Social worker: This definition was amended, as from 1 April 1990, by section 36(2) Social Welfare (Transitional Provisions) Act 1990 (1990 No 26) by substituting the words “employed as such under Part 5 of the State Sector Act 1988 in the Department of Social Welfare” for the words “appointed or deemed to be appointed in accordance with section 8 of the Department of Social Welfare Act 1971”.

Social Worker: this definition was amended, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82) by omitting the words “of Social Welfare”.

Access to information

3 Birth parent may restrict access to identifying information

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

accordingly, and to be endorsed also with the date on which it was so endorsed.

- (3) The fact that there is upon the original entry of the birth of any person one unexpired endorsement under subsection (2) of this section relating to any person shall not prevent a further endorsement under that subsection relating to that person.
- (4) Subject to subsection (5) of this section, every endorsement under subsection (2) of this section shall continue in force until the expiration of 10 years from the date of its making, and shall then expire.
- (5) A birth parent of an adopted person may at any time request the Registrar-General to have removed from the original entry of that person's birth all endorsements under subsection (2) of this section relating to that parent; and in that case the Registrar-General shall cause that entry to be noted accordingly, and those endorsements shall then expire.

4 Adult adopted person may apply for original birth certificate

- (1) Any adult may make a written application to the Registrar-General for an original birth certificate in relation to the applicant; and in that case the following provisions shall apply:
 - (a) Where it does not appear from the records of the Registrar-General that the applicant is adopted, the Registrar-General shall so notify the applicant in writing:
 - (b) Subject to subsection (2) of this section, where it appears from the records of the Registrar-General that the applicant was adopted before the 1st day of March 1986, and that—
 - (i) Details relating to only one of the applicant's birth parents appear in the original entry of the applicant's birth, and there is on that entry any unexpired endorsement under section 3(2) of this Act relating to that parent; or
 - (ii) Details relating to both of the applicant's birth parents appear in the original entry of the applicant's birth, and there are on that entry unexpired endorsements under section 3(2) of this Act relating to each of those parents,—

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

5 Certificates for persons adopted before commencement of Act

- (1) The Registrar-General shall inform every applicant to whom this subsection is applied by section 4(1)(b) of this Act of the existence, effect, and date of expiry of the endorsements concerned, and, notwithstanding section 21(7) of the Births and Deaths Registration Act 1951, shall send the applicant an original birth certificate from which there have been removed all details relating to the applicant's birth parents, and every reference to any surname registered for the applicant.
- (2) Notwithstanding section 21(7) of the Births and Deaths Registration Act 1951, but subject to subsection (3) of this section,

the following provisions shall apply to every application under section 4(1) of this Act made by an applicant to whom this subsection is applied by section 4(1)(c) of this Act:

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

- (4) There shall be omitted from every original birth certificate sent under subsection (2) of this section every reference to any surname registered for the applicant if—
- (a) There is on the original entry of the applicant's birth an unexpired endorsement under section 3(2) of this Act relating to a parent who has that surname; and
 - (b) The Registrar-General is not satisfied that that parent is dead.

Subsection (1) was amended, as from 1 September 1995, by section 95 Births, Deaths and Marriages Registration Act 1995 (1995 No 16) by substituting the words "there have been removed all details relating to the applicant's birth parents, and every reference to any surname registered for the applicant" for the words "all details relating to the applicant's birth parents have been omitted".

Subsection (2)(d) was amended, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82) by substituting the words "chief executive" for the words "Director-General".

Subsection (4) was inserted, as from 1 September 1995, by section 95 Births, Deaths and Marriages Registration Act 1995 (1995 No 16).

6 Certificates for persons adopted after commencement of Act

Notwithstanding section 21(7) of the Births and Deaths Registration Act 1951, the following provisions shall apply to every application under section 4(1) of this Act by an applicant to whom this section is applied by section 4(1)(d) of this Act:

- (a) The Registrar-General shall notify the applicant in writing—
 - (i) Of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and
 - (ii) That if within 28 days the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, an original birth certificate will be sent to the appropriate office of the Department or that person or organisation; and
 - (iii) That if the applicant does not desire counselling, or fails within 28 days to inform the Registrar-General that the applicant does desire

counselling, an original birth certificate will thereafter be held on the applicant's behalf:

- (b) If the applicant—
 - (i) Notifies the Registrar-General in writing that the applicant does not desire counselling; or
 - (ii) Has not, within the 28 days following the dispatch to the applicant of the notice under paragraph (a) of this section, notified the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation,—the Registrar-General shall forthwith notify the applicant in writing that an original birth certificate is held on the applicant's behalf:
- (c) If the applicant is notified under paragraph (b) of this section that an original birth certificate is held on the applicant's behalf, and thereafter notifies the Registrar-General in writing that the applicant wishes it sent to the applicant, the Registrar-General shall send it to the applicant:
- (d) If, within the 28 days following the dispatch to the applicant of the notice under paragraph (a) of this section, the applicant has notified the Registrar-General that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to—
 - (i) The appropriate office of the Department; or
 - (ii) The approved person or organisation specified by the applicant,—

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

7 Adopted person may register desire not to have contact with birth parents

- (1) An adopted person who has attained the age of 19 years may at any time request the Registrar-General to have the original entry of that person's birth endorsed to the effect that that per-

son does not desire any contact with a specified birth parent, or with either of that person's birth parents.

- (2) The following provisions shall apply to every request under subsection (1) of this section:
 - (a) The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations:
 - (b) That person shall indicate to the Registrar-General whether or not that person desires counselling:
 - (c) If that person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:
 - (d) If that person—
 - (i) Indicates that that person does not desire counselling; or
 - (ii) Under paragraph (c) of this subsection requests the Registrar-General to proceed with the original request—the Registrar-General shall cause the original entry of that person's birth to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed.
- (3) The fact that there is upon the original entry of a person's birth one unexpired endorsement under subsection (2) of this section relating to a parent shall not prevent a further endorsement under that subsection relating to that parent.
- (4) Subject to subsection (5) of this section, every endorsement under subsection (2) of this section shall continue in force until the expiration of 10 years from the date of its making, and shall then expire.
- (5) Any person may at any time request the Registrar-General to have removed from the original entry of that person's birth any endorsements under subsection (2) of this section; and in that case the Registrar-General shall cause that entry to be noted accordingly, and those endorsements shall then expire.

8 Access by birth parents to identifying information

- (1) Any person may make a written application to the chief executive for identifying information relating to an adult adopted person whose birth parent the applicant is.
- (2) Where the chief executive is satisfied that an applicant under subsection (1) of this section is a birth parent of the adult adopted person to whom the information sought relates, the following provisions shall apply:
 - (a) Where the chief executive is satisfied that the adopted person concerned is dead, the chief executive shall so inform the applicant; and the chief executive may disclose to the applicant such information as the chief executive thinks fit relating to that person, that person's circumstances at the time of that person's death, and the circumstances of that person's death:
 - (b) Where the chief executive is not satisfied that the adopted person concerned is dead, the chief executive shall enquire of the Registrar-General if there is on the original entry of the birth of that person any unexpired endorsement under section 7(2) of this Act relating to the applicant; and in that case the Registrar-General shall inform the chief executive whether or not there is such an entry and, if so, when it (or if more than one the most recent of them) will expire:
 - (c) Where the Registrar-General informs the chief executive that there is such an endorsement on that entry, the chief executive shall give the applicant the information given to the chief executive by the Registrar-General under paragraph (b) of this subsection, and shall inform the applicant of the effect of the endorsement concerned:
 - (d) Where the Registrar-General informs the chief executive that there is no such endorsement on that entry—
 - (i) If the chief executive does not know the name and address of the adopted person concerned but, in the chief executive's opinion, it is probable that a social worker can ascertain identifying information relating to that person without undue effort,

the chief executive shall cause a social worker to attempt to do so:

- (ii) If the chief executive knows the name and address of the adopted person concerned and, in the chief executive's opinion, it would be possible for a social worker to contact that person without undue effort, the chief executive shall cause a social worker to attempt to do so and to ascertain whether or not that person is willing to have that person's name and address communicated to the applicant:
- (iii) The name and address of the adopted person concerned shall not be communicated to the applicant unless that person has indicated to that social worker that that person is willing for them so to be communicated:
- (iv) If the adopted person concerned has indicated to that social worker that that person is willing to have that person's name and address communicated to the applicant, the chief executive shall communicate them to the applicant and inform both the adopted person and the applicant of the effect of section 10 of this Act.

Section 8 was amended, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82) by substituting the words "chief executive" for the words "Director-General".

9 Access by adult adopted persons to identifying information

- (1) Any adult adopted person may make a written application to the chief executive for identifying information relating to either or both of that person's birth parents.
- (2) Every application under subsection (1) of this section shall be accompanied by an original birth certificate relating to the applicant.
- (3) The chief executive shall disclose to an applicant under subsection (1) of this section all available identifying information relating to any birth parent concerned, and inform that person of the effect of section 10 of this Act, if, and only if,—

- (a) Details of that parent appear in the original birth certificate accompanying the application; or
 - (b) The chief executive is satisfied that that parent is dead.
- (4) Where—
- (a) The chief executive is required by subsection (3) of this section to disclose to an applicant under subsection (1) of this section identifying information relating to a birth parent; and
 - (b) The chief executive does not know the name and address of that parent; and
 - (c) In the opinion of the chief executive, it is probable that a social worker can ascertain identifying information relating to that parent without undue effort,—
- the chief executive shall cause a social worker to attempt to do so; and subsection (3) of this section shall apply to all identifying information obtained as a result.

Section 9 was amended, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82) by substituting the words “chief executive” for the words “Director-General”.

10 Departmental assistance in approaching parent or child

- (1) An adult adopted person who has ascertained the name and address of a birth parent may request any social worker to approach that parent on that person’s behalf.
- (2) Any person who has ascertained the name and address of an adult adopted person whose birth parent that person is may request any social worker to approach that adopted person on that person’s behalf.
- (3) Any adoptive parent of an adopted person who has ascertained the name and address of a birth parent of that adopted person may request any social worker to approach that parent on that adoptive parent’s behalf.
- (4) A social worker to whom a request is made under this section may decline that request.
- (5) Where a social worker accepts a request made under this section, that social worker shall approach the person concerned and ask if that person is willing to meet the person who made the request, and if so under what circumstances; and—

- (a) If the person concerned is unwilling to meet the person who made the request, the social worker shall so inform the person who made the request; and
 - (b) If the person concerned is willing to meet the person who made the request, the social worker shall inform the person who made the request of the circumstances under which the person concerned is willing to do so.
- (6) Where a social worker accepts a request under this section, and approaches any person,—
- (a) If the person who made that request is an adult adopted person, or an adoptive parent of an adult adopted person, that social worker shall inform the person approached of the rights (if any) that that person has under section 3 of this Act in relation to any other child of that person who may have been adopted:
 - (b) If the person who made that request is a birth parent, that social worker shall inform the person approached of the rights that that person has under section 7 of this Act in relation to the other birth parent of that person.

11 Access to information on medical grounds

- (1) For the purposes of this section,—

doctor means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

doctor: this definition was substituted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

Medical includes psychiatric

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

Unknown relative, in relation to any person, means a relative whose name and address are unknown to that person by virtue of the confidentiality attendant upon the adoption of that per-

son, that relative, or some other person who is a relative of them both.

- (2) A doctor who is—
 - (a) Responsible for the medical treatment and advice of any patient; and
 - (b) Satisfied that it is necessary or desirable, for the purpose of providing treatment of or advice relating to any medical condition of that patient, or for the purpose of providing genetic counselling for or in relation to that patient, to obtain information about the medical or genetic history of an unknown relative,—

may give the chief executive notice in writing to that effect, specifying the information concerned.
- (3) Where, in the opinion of any doctor, any information obtained as a result of that doctor's dealings with any patient is likely to be relevant to the provision of treatment of or advice relating to any medical condition or potential medical condition of any unknown relative, or the provision of genetic counselling for or in relation to any unknown relative, that doctor may with the consent of that patient (or, where that patient is not an adult, of that patient's guardian) give the chief executive notice in writing to that effect, together with a separate statement of that information.
- (4) A social worker may produce a notice under subsection (2) or subsection (3) of this section—
 - (a) To the Registrar-General; and in that case, notwithstanding section 63 of the Births, Deaths, and Marriages Registration Act 1995, the social worker shall be entitled to obtain an original birth certificate of the adopted person concerned:
 - (b) To the Registrar of the Court where the Court file relating to the adoption concerned is held; and in that case the social worker shall be entitled to search, inspect, and take a copy of any document on the file concerned.
- (5) A social worker may disclose to the doctor concerned (in the case of a notice under subsection (2) of this section) or the doctor of any unknown relative (in the case of a notice under subsection (3) of this section) any information whatsoever (not

being identifying information) relevant to the medical or genetic history of the patient or relative concerned.

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

Subsections (2) and (3) were amended, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82) by substituting the words “chief executive” for the words “Director-General”.

Subsection (4) was amended, as from 1 September 1995, by section 95 Births, Deaths, and Marriages Registration Act 1995 (1995 No 16) by substituting the words “section 63 of the Births, Deaths, and Marriages Registration Act 1995” for the words “section 21(7) of the Births and Deaths Registration Act 1951”.

Approved persons and organisations

12 Minister may approve persons and organisations for purposes of Act

- (1) The Minister of Social Welfare may from time to time, by notice in the *Gazette*, approve any person or organisation (whether incorporated or unincorporated) to undertake counselling under this Act.
- (2) Any approved organisation may from time to time notify the chief executive of the name of any member or employee authorised to act on behalf of that organisation; and may at any time notify the chief executive that the authority of that member or employee has been withdrawn.

Subsection (2) was amended, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82) by substituting the words “chief executive” for the words “Director-General”.

12A Fees

- (1) Regulations made under section 13(1)(a) of this Act may prescribe fees for—
- (a) The making of any application or request under this Act to the Registrar-General, the chief executive, or a social worker; or
 - (b) The approval of any person or organisation under section 12 of this Act; or
 - (c) The doing of any other act under this Act by the Registrar-General, the chief executive, or a social worker.

- (2) Notwithstanding anything in the Official Information Act 1982, the Registrar-General, the chief executive, or a social worker (as the case may be) may refuse to—
- (a) Accept any application or request under this Act; or
 - (b) Approve any person or organisation under section 12 of this Act; or
 - (c) Do any other act under this Act,—
for which or for the making or doing of which a fee is prescribed (whether under this Act or by or under any other enactment) unless the fee has been paid.
- (3) Notwithstanding subsection (2) of this section,—
- (a) The Registrar-General may—
 - (i) Dispense with the payment of all or any part of any fee payable to the Registrar-General under this Act; or
 - (ii) Refund all or any part of any fee paid to the Registrar-General under this Act; and
 - (b) The chief executive may—
 - (i) Dispense with the payment of all or any part of any fee payable to the chief executive or a social worker under this Act; or
 - (ii) Refund all or any part of any fee paid to the chief executive or a social worker under this Act.

Section 12A was inserted, as from 8 August 1991, by section 2(1) Adult Adoption Information Amendment Act 1991 (1991 No 94).

Section 12A was amended, as from 1 October 1999, by section 13 Department of Child, Youth and Family Services Act 1999 (1999 No 82) by substituting the words “chief executive” for the words “Director-General”.

General

13 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for either or both of the following purposes:
- (a) Prescribing fees payable under this Act;
 - (b) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and its due administration.
- (2)

(3)

Subsections (2) and (3) were repealed, as from 8 August 1991, by section 2(2) Adult Adoption Information Amendment Act 1991 (1991 No 94).

14 Act not to affect disclosure of non-identifying information

Nothing in this Act shall affect the disclosure to any person of any information relating to any other person that is not, in relation to that other person, identifying information.

15 Amendment to Adoption Act 1955

The Adoption Act 1955 is hereby amended by repealing section 23, and substituting the following section:

“23 Inspection of adoption records

- “(1) An adoption order shall be open to inspection by any person who requires to inspect it for some purpose in connection with the administration of an estate or trust of which that person is executor, administrator, or trustee.
- “(2) Adoption records shall be open to inspection by any Registrar of Marriages or marriage celebrant under the Marriage Act 1955 for the purpose of investigating forbidden degrees of relationship under that Act.
- “(3) Adoption records shall not be available for production or open to inspection except—
- “(a) To the extent authorised by subsection (1) or subsection (2) of this section or by section 11(4)(b) of the Adult Adoption Information Act 1985; or
 - “(b) On the order of a Family Court, a District Court, or the High Court, made—
 - “(i) For the purposes of a prosecution for making a false statement; or
 - “(ii) In the event of any question as to the validity or effect of any interim order or adoption order; or
 - “(iii) On any other special ground.”