



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Health Committee

Komiti Whiriwhiri Take Hauora

54th Parliament

August 2024

Improving Arrangements for Surrogacy Bill

Third interim report

Presented to the House of Representatives
by Sam Uffindell, Chairperson

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Improving Arrangements for Surrogacy Bill

Recommendation

The Health Committee is considering the Improving Arrangements for Surrogacy Bill and recommends that the House take note of this third interim report on the bill.

Background to our interim report

We are currently considering the Improving Arrangements for Surrogacy Bill. As introduced, the bill seeks to simplify surrogacy arrangements and provide a mechanism for enforcing them, and ensure that information recorded on birth certificates is complete.

The bill was referred to the Health Committee of the 53rd Parliament on 18 May 2022. The bill was initially a Member's bill in the name of Tāmati Coffey, MP. On 30 May 2023, the Government announced that it had agreed to adopt the bill as a Government bill.

On 29 April 2022, the Law Commission published a report, *Te Kōpū Whāngai: He Arotake, Review of Surrogacy*. The previous Health Committee obtained permission from the Business Committee to consider out-of-scope amendments to the bill, so that it could incorporate recommendations from the Law Commission's report.

The committee presented two interim reports on the bill, on 27 October 2022 and 24 August 2023, to update the House on its consideration.¹ In the second interim report, the committee informed the House that it had asked the Parliamentary Counsel Office to redraft the bill to incorporate the Law Commission's recommendations. The committee recommended that the Health Committee of the 54th Parliament consider seeking further public input on the redrafted bill if the bill was reinstated. The committee released the advice it had received to date to allow interested individuals and organisations time to consider the information in the advice.

The bill was subsequently reinstated with us in the 54th Parliament.

Update on our consideration of the bill and purpose of this third interim report

We have received a redrafted version of the bill from the Parliamentary Counsel Office, which incorporates the recommendations from the Law Commission's report. We have considered the previous committee's recommendation, and have agreed that seeking public input on the proposed changes would help our consideration. The proposed changes to the bill are extensive, and the new version of the bill is substantially different from the bill as introduced. This reflects many of the Law Commission's recommendations. The committee put the surrogate-born child at the centre of our discussions.

The purpose of this interim report is to release the redrafted version of the bill for public input.

¹ Copies of the [first interim report](#) and [second interim report](#) are available on the Parliament website.

We have appended the following documents to our report:

- Appendix B—an explanatory note that explains each of the proposed new clauses in the redrafted bill and proposes questions for submitters.
- Appendix C—the redrafted bill showing proposed amendments.

Specific matters that we are seeking feedback on

We are interested in any feedback that submitters wish to provide on the redrafted bill. We would also like to draw submitters' attention to 15 questions that we would like to receive feedback on. Submitters might like to consider one or more of these questions in their submissions. As noted above, these questions are also included in the explanatory note that is attached to this report. Submitters can find more context for these questions in the explanatory note and the redrafted bill. The questions are as follows:

Amendments to the Human Assisted Reproductive Technology Act 2004

1. Do you agree with the requirement in new section 23E—or have any other views about the nature or level of a provider's assistance with a surrogacy arrangement that should trigger the requirement for the arrangement to be approved by the ethics committee?
2. How may applications made by a surrogate and intended parents under new section 23G operate in an easy and cost-effective way?
3. Should the cancellation of an approval of a surrogacy arrangement or an assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement only be able to be made before a particular step or stage of the surrogacy process? If so, what should that step or stage be?
4. Should there be provision for a review panel to review the decisions of the ethics committee in relation to applications for approval of surrogacy arrangements and assisted reproductive procedures, or is the ability of the ethics committee to reconsider applications sufficient?
5. Do you have any views on what information should be collected about surrogates and donors, including whether surrogates' and donors' hapū and iwi should be collected separately from their ethnicity and cultural affiliations?

Amendments to the Status of Children Act 1969

6. Should there be an upper time limit for the initiation or completion of a transfer of parentage by operation of law or by a parentage order? If so, what should the time limit be? Should an older surrogate-born child be able to apply for a parentage order, or have an exclusive right to apply for a parentage order?
7. After a surrogate-born person's parentage has transferred to the intended parents, in what circumstances should a marriage or civil union be prohibited between the surrogate-born person and the surrogate or a member of the surrogate's family? Is the approach in new section 36 appropriate, or could a less restrictive approach be appropriate? For example, should a surrogate-born person who has no genetic connection to their surrogate and whose parentage has been transferred be able to enter into a civil union or marriage with a person who is a child of the surrogate?
8. Should a transfer of parentage have any other legal effects beyond those outlined in new sections 35–37?

9. Do you agree that the transfer of parentage by operation of law should take effect when the intended parents receive the surrogate's signed declaration? Or should the transfer of parentage by operation of law take effect on the date that the surrogate signs the declaration, or at some other time?
10. Should a transfer of parentage by operation of law only be available in respect of a surrogate-born child who is born in New Zealand?
11. Are declarations of parentage needed and, if so, in what circumstances might an application for a declaration of parentage be made? Or should the provisions of subpart 4 of new Part 3 be removed from the bill?
12. Are there other circumstances beyond those outlined in new section 66 in which an overseas parentage determination should be recognised in New Zealand?
13. Should identity information about a surrogate-born child be collected as outlined in new section 67?

Amendments to the Births, Deaths, Marriages, and Relationships Registration Act 2021

14. Should there be a mechanism to alert surrogate-born people to the existence of their restricted information? If so, is the notification mechanism proposed in new section 92A appropriate? Or is there an alternative mechanism that would better balance the right to identity information and the right to privacy of personal information?

Amendments to the Adoption Act 1955

15. Do you agree with new section 4A proposed to be inserted in the Adoption Act 1955? Or do you have any other views on when a surrogate-born child should be able to be adopted?

We look forward to receiving submissions on the updated version of the bill.

Appendix A

Committee procedure

The Improving Arrangements for Surrogacy Bill was referred to the Health Committee of the 53rd Parliament on 18 May 2022. The committee called for submissions on the bill with a closing date of 20 July 2022. It received submissions from 34 interested groups and individuals, and heard oral evidence from 12 submitters at hearings in Wellington and by videoconference. That committee published two interim reports on the bill, on 27 October 2022 and 24 August 2023.

The bill was reinstated in the 54th Parliament. We received advice on the bill from the Ministry of Justice, the Department of Internal Affairs, the Inland Revenue Department, and the Ministry of Health. The Parliamentary Counsel Office has assisted with legal drafting.

Committee members

Sam Uffindell (Chairperson)

Dr Hamish Campbell

Dr Carlos Cheung

Ingrid Leary

Cameron Luxton

Hūhana Lyndon

Jenny Marcroft

Debbie Ngarewa-Packer

Hon Dr Ayesha Verrall

Related resources

The documents that the previous committee received as advice and evidence are available on the [Parliament website](#).

Appendix B—Explanatory note and questions for submitters

DRAFT FOR CONSULTATION

Improving Arrangements for Surrogacy Bill

Government Bill

Explanatory note and queries for submitters

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force 12 months after Royal assent, except that—

- *section 10I*, to the extent that it relates to *new sections 23L to 23S* of the Human Assisted Reproductive Technology Act 2004 (which establish the review panel and provide for the review of decisions made by the ethics committee in relation to the approval of surrogacy arrangements), comes into force 18 months after Royal assent; and
- *Part 5A* (amendments to the Income Tax Act 2007) comes into force on 1 April [insert].

The delay in the commencement of the Bill is to enable various administrative processes to be put in place. It also allows amendments to be made to the Family Court Rules 2002 (in relation to *new Part 3* of the Status of Children Act 1969) and for those amendments to be brought into force concurrently.

Part 1

Amendments to Human Assisted Reproductive Technology Act 2004

Clause 10A provides that *Part 1* amends the Human Assisted Reproductive Technology Act 2004 (the **principal Act**).

Clause 10B amends section 3 of the principal Act to provide that the principal Act has the following additional purposes:

- to provide for the approval of surrogacy arrangements; and
- to establish an information-keeping regime in relation to surrogacy arrangements.

Clause 10C amends section 4 of the principal Act to—

- extend the principle in section 4(a) so that the health and well-being of children born as a result of a surrogacy arrangement should be an important consideration in all decisions about that arrangement; and
- include the principle that persons born as a result of a surrogacy arrangement should have the opportunity to learn about their genetic and gestational origins and whakapapa, and that they should be able to access this information in the future.

Clause 10D amends section 5 of the principal Act to—

- replace the definition of surrogacy arrangement with a more expansive definition that includes the requirement that the arrangement be entered into before the conception of the surrogate-born child;
- replace the definition of valuable consideration with a definition that also expressly captures payments and rewards;
- insert definitions for intended parents (which is defined with reference to 1 or 2 people), review panel, surrogate, and surrogate-born child.

Clause 10E replaces section 12 of the principal Act. *New section 12*—

- carries over the existing offence of obtaining a gamete from an individual who is under 16 years of age but establishes a defence that the defendant must prove that they obtained the gamete for the purpose of preserving it and that an appropriate consent was given to the procedure; and
- carries over the existing offence of using a gamete that was obtained from an individual who is under 16 years of age but broadens the defence to allow the gamete to be used for a lawful purpose with the consent of the individual after the individual turns 16 years of age.

Clause 10F repeals section 14 of the principal Act. The prohibition on commercial surrogacy arrangements is now dealt with in *new section 23C* (inserted by *clause 10I*).

Clause 10G is a technical amendment to section 15 of the principal Act to update a cross-reference to section 14 (repealed by *clause 10F*) to a reference to *new section 23C*.

Clause 10H inserts, in subpart 2 of Part 2 of the principal Act, *new section 15A* to define the terms assisted reproductive procedure and activity. Subpart 2 of Part 2 of the principal Act provides that it is an offence to perform an assisted reproductive procedure without obtaining the prior approval of the ethics committee and requires that an approved activity be undertaken in accordance with any applicable conditions and regulations. The terms assisted reproductive procedure and activity are defined to exclude procedures performed, and activities undertaken, in connection with a surrogacy arrangement so that surrogacy arrangements will not be regulated under this subpart. Surrogacy arrangements will instead be regulated under *new subpart 2A of Part 2* (inserted by *clause 10I*).

Clause 10I inserts *new subpart 2A* into Part 2 of the principal Act, which relates to surrogacy arrangements. This new subpart comprises *new sections 23A to 23S*.

New section 23A is an interpretation provision and defines terms used in *new subpart 2A of Part 2*, including applicant and social worker.

New section 23B carries over existing section 14(1) (repealed by *clause 10F*) and provides that a surrogacy arrangement is not illegal, but is not enforceable by or against any person. However, *new section 23B* also provides that an obligation under a surrogacy arrangement to pay or reimburse reasonable surrogacy costs is enforceable.

New section 23C carries over existing section 14(3) and (4) (repealed by *clause 10F*), which provides that it is an offence to be involved in a commercial surrogacy arrangement. In addition to providing that valuable consideration given, for certain purposes, to a provider or legal adviser does not constitute involvement in a commercial surrogacy arrangement, *new section 23C* also permits payments to persons publishing certain material and to surrogates for reasonable surrogacy costs they have incurred.

New section 23D defines reasonable surrogacy costs. Reasonable surrogacy costs are the reasonable costs of a surrogate associated with becoming or trying to become pregnant, a pregnancy or birth, post-partum recovery, and entering into and giving effect to a surrogacy arrangement. A non-exhaustive list of a surrogate's reasonable surrogacy costs is given, which includes reasonable medical costs, travel and accommodation costs, and out-of-pocket expenses, as well as the cost of health insurance premiums and the amount of lost or diminished income.

New section 23E provides that a surrogacy arrangement that involves the assistance of a provider must be approved by the ethics committee. If a surrogacy arrangement involves the assistance of a provider performing an assisted reproductive procedure, the ethics committee's prior written approval of both the surrogacy arrangement and the assisted reproductive procedure must be obtained. If a surrogacy arrangement involves the assistance of a provider performing an established procedure, the ethics committee's prior written approval of only the surrogacy arrangement must be obtained. A provider who fails to obtain the necessary consents commits an offence and is liable on conviction to a fine of up to \$50,000.

Query for submitters

1. Do you agree with the requirement in this section or have any other views about the nature or level of a provider's assistance with a surrogacy arrangement that should trigger the requirement for the arrangement to be approved by the ethics committee?

New section 23F provides that if a surrogacy arrangement does not involve the assistance of a provider performing an assisted reproductive procedure or an established procedure, the ethics committee's prior written approval may (but need not) be obtained in relation to surrogacy arrangement.

New section 23G sets out how an application for the approval of a surrogacy arrangement is to be made to the ethics committee. The application must be made in the form and manner approved by the ethics committee and contain detail of the surrogacy arrangement for which the approval is sought. If a provider is assisting with the surrogacy arrangement, the application must be made by the provider. In any other case,

the application must be made jointly by the surrogate and intended parents or by a provider.

Query for submitters

2. How may applications made by a surrogate and intended parents operate in an easy and cost effective way?

New section 23H requires the ethics committee to consider a social worker's report before determining an application for the approval of a surrogacy arrangement. A provider or the ethics committee may request the chief executive of Oranga Tamariki—Ministry for Children to arrange the preparation of a social worker's report. The report must assess whether the intended parents under the proposed surrogacy arrangement would pose any risk of serious harm to a child born as a result of the arrangement and be prepared in accordance with any regulations made under section 76 of the principal Act and any relevant guidelines issued by the advisory committee.

New section 23I requires the ethics committee, before approving a surrogacy arrangement, to be satisfied that the surrogacy arrangement—

- meets all requirements set out in any guidance issued by the advisory committee relevant to the surrogacy arrangement; and
- is consistent with any relevant advice given by the advisory committee.

New section 23I also requires the ethics committee, before approving an assisted reproductive procedure to be undertaken in connection with a surrogacy arrangement, to be satisfied that the procedure—

- meets all requirements set out in any guidance issued by the advisory committee relevant to the procedure; and
- is consistent with any relevant advice given by the advisory committee.

New section 23J provides that an approval of a surrogacy arrangement, or any assisted reproductive procedure to be undertaken in connection with a surrogacy arrangement, may be given subject to any conditions the ethics committee considers appropriate. On its own initiative, or on the request of the applicant, the ethics committee may subsequently change the conditions on an approval by varying a condition, revoking a condition, or by imposing 1 or more new conditions.

New section 23K provides that the ethics committee may cancel an approval given, in whole or in part, if—

- it is satisfied that 1 or more conditions of the approval has been breached; or
- the surrogacy arrangement, or any assisted reproductive procedure to be undertaken in connection with a surrogacy arrangement, is inconsistent with the advisory committee's guidelines or advice, is inconsistent with the description in the application, or breaches, or has breached, the principal Act or any applicable regulations; or
- the ethics committee has subsequently become aware that an assisted reproductive procedure undertaken in connection with the surrogacy arrangement poses a serious risk to human health and safety.

Before cancelling an approval, the ethics committee must inform the applicant of the proposed cancellation, give the applicant a reasonable time to make written submission and be heard on the matter, and consider any submissions.

If the approval of an assisted reproductive procedure is cancelled, no further step may be taken in respect of that procedure.

Query for submitters

3. Should the cancellation of an approval of a surrogacy arrangement or an assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement only be able to be made before a particular step or stage of the surrogacy process? If so, what should that step or stage be?

New section 23L requires the Minister of Health (the **Minister**) to establish and maintain a review panel to review applications made under *new section 23M*. The Minister must have regard to certain matters when appointing panel members and appointment is by written notice stating the date on which the appointment takes effect, the term of the appointment, and any conditions of the appointment. One panel member must be appointed as the chairperson of the panel.

The Director-General of Health must provide the panel with administrative support to assist the panel in performing its functions.

Query for submitters

4. Should there be provision for a review panel to review the decisions of the ethics committee in relation to applications for approval of surrogacy arrangements and assisted reproductive procedures, or is the ability of the ethics committee to reconsider applications sufficient?

New section 23M provides that an applicant for approval of a surrogacy arrangement, or any assisted reproductive procedure to be undertaken in connection with a surrogacy arrangement, may apply to the review panel for a review of a decision made by the ethics committee to decline the application or to impose conditions on the approval. An application for review must be made in a form and manner approved by the panel and be lodged with the chairperson of the panel within 28 working days after the date on which the applicant is notified of the decision.

New section 23N provides that, on receiving an application for review, the chairperson must convene a meeting of the review panel to consider the application. The quorum for a meeting is 3 panel members, including the chairperson. A decision of the panel must be made by consensus, or otherwise by majority.

New section 23O affords to the chairperson of the review panel the power to obtain from the ethics committee information relating to the decision that is the subject of the review. The chairperson may also make inquiries of, and request explanations from, the ethics committee in relation to its decision and may also seek advice from the advisory committee.

New section 23P gives the review panel power to dismiss an application brought under *new section 23M* if it is satisfied that the application is trivial.

New section 23Q provides that the panel must look at the matter afresh and decide the application in accordance with any relevant guidelines or relevant advice issued or given by the advisory committee. The panel must confirm the ethics committee's deci-

sion, modify the decision, replace the decision with another decision, or refer the decision back to the ethics committee for reconsideration.

As soon as practicable after determining an application, the review panel must provide the applicant with a copy of its decision, which must include the reasons for its decision.

New section 23R requires the review panel to perform its functions and exercise its powers expeditiously.

New section 23S requires the review panel to give a copy of its decision to both the ethics committee and the advisory committee.

Clause 10J is a technical amendment that inserts, before the cross-heading above section 24 of the principal Act, a subpart heading: Subpart 2B—Moratoriums. This is to assist with the structure of the principal Act so that it is easier to navigate. Subpart 2B will consist of sections 24 to 26 of the principal Act.

Clause 10K is also a technical amendment to insert a new subpart heading to make the principal Act easier to navigate. Before the cross-heading above section 27, the following subpart heading is inserted: Subpart 2C—Ethics committee. Subpart 2C will consist of sections 27 to 31 and *new section 31A* of the principal Act.

Clause 10L amends section 27 of the principal Act to require the Minister to ensure that the membership of the ethics committee includes 2 or more persons with the ability to articulate the interests of children.

New section 27(3A) is also inserted to require that when designating the ethics committee, the Minister must have regard to the need for the committee to have available to it collectively from its members expertise in, knowledge of, or experience in mātauranga Māori and the ability to articulate Māori perspectives.

Clause 10M amends section 28 of the principal Act so that the ethics committee's functions in relation to surrogacy arrangements are expressly stated.

Clause 10N replaces the cross-heading above section 31 to more accurately refer to notices and annual reports (of the ethics committee).

Clause 10O repeals section 31(3), which requires the Ministry of Health's annual reports to include the names of the members of the ethics committee and the name of the chairperson. This provision is repealed because *clause 10P* inserts *new section 31A*, which requires the ethics committee to prepare annual reports.

Clause 10P inserts *new section 31A* into the principal Act, which requires the ethics committee to provide the Minister with annual reports that include specified information. This information includes the name of the chairperson of the committee, the names of the other members of the committee, the number and kind of applications for approval received by the committee in the year, and the outcomes of those applications.

The Minister must present a copy of the report to the House of Representatives and the ethics committee must then publish the report on the internet.

Clause 10Q amends section 34 of the principal Act to increase to 2 the number of members that must have the ability to articulate the interests of children.

Section 34 of the principal Act is also amended to require that, when appointing members of the advisory committee, the Minister must have regard to the need for the committee to have available to it collectively from its members expertise in, knowledge of, or experience in mātauranga Māori and the ability to articulate Māori perspectives. This provision is the same as *new section 27(3A)* (inserted by *clause 10L*) in relation to the designation of the ethics committee.

Lastly, section 34(5) of the principal Act is amended to specify that only 1 of the members that have an ability to articulate the interests of children must be a board member, representative, or employee of the Children and Young People's Commission.

Clause 10R amends section 35(1) of the principal Act to expressly recognise as functions of the advisory committee—

- issuing guidelines and giving advice to the ethics committee on matters relating to surrogacy arrangements; and
- giving advice to the review panel; and
- providing advice to the Minister on aspects of, or issues arising out of, surrogacy arrangements; and
- liaising with the ethics committee on matters relating to surrogacy arrangements.

Section 35(2) of the principal Act is also amended to require the advisory committee to monitor the outcomes of approved surrogacy arrangements.

Clause 10S replaces the cross-heading above section 42 to more accurately refer to notices and annual reports (of the advisory committee).

Clause 10T repeals section 42(3) and (4) of the principal Act, which requires the advisory committee to provide annual reports to the Minister. This provision is repealed because *clause 10U* inserts *new section 42A*, which deals specifically with the advisory committee's annual reports.

Clause 10U inserts *new section 42A*, which relates to the advisory committee's annual reports. This section is substantially the same as existing section 42(3) and (4), but no longer requires the advisory committee to include in its annual report details of decisions made by the ethics committee. This is because the ethics committee is required by *new section 31A* (inserted by *clause 10P*) to prepare its own reports. After the Minister presents a copy of the advisory committee's annual report to the House of Representatives, the advisory committee must publish the report on the Internet.

Clause 10V inserts *new Part 3A* into the principal Act, which provides for the collection of information about surrogates, donors, and surrogate-born children. This new Part comprises *new sections 66A to 66H*.

New Part 3A provides for the collection of information about surrogates, donors, and surrogate-born children.

New section 66A provides that *new Part 3A* applies to a provider who, on or after the commencement of this Part, assists with a surrogacy arrangement by performing an assisted reproductive procedure or an established procedure.

New section 66B requires a provider to obtain certain personal information about a surrogate and to subsequently accept any information that a surrogate offers to update or correct that information.

New section 66C requires a provider to obtain certain personal information about a donor who donated genetic material that resulted in a surrogate's pregnancy and to subsequently accept any information that a donor offers to update or correct that information.

Query for submitters

5. Do you have any views on what information should be collected about surrogates and donors, including whether surrogates' and donors' hapū and iwi should be collected separately from their ethnicity and cultural affiliations?

New section 66D provides that before obtaining any information from a surrogate or donor, the provide must ensure that the surrogate and donor are aware of certain matters, including that a surrogate-born child may obtain access to the information under the Births, Deaths, Marriages, and Relationships Registration Act 2021.

New section 66E requires providers to have in place an effective system for being notified, or being made aware of, the birth of a child as a result of a surrogacy arrangement.

New section 66F requires a provider to obtain certain information about a surrogate-born child, including the names of the intended parents.

New section 66G requires that, as soon as reasonably practicable after obtaining information about a surrogate-born child, a provider must advise the Registrar-General of the birth and give to the Registrar-General the information that the provider has obtained about the surrogate, the donors whose donation resulted in the birth of the child, and the surrogate-born child. The information must be given in a form and manner required by the Registrar-General. If a provider subsequently receives any additional information that corrects or updates any of the information given to the Registrar-General, that updated or corrected information must be promptly passed on to the Registrar-General.

New section 66H provides that a provider may destroy any information obtained about a surrogate and donor if the surrogate's pregnancy is terminated, the embryo is destroyed, or a donated cell is destroyed.

Clause 10W amends section 76 to provide for the making of regulations about social workers' reports referred to in *new section 23H*, including the steps and actions that a social worker must take when preparing a report, the information that must be considered in the course of preparing the report, and the information that a report must contain. Regulations about the steps and actions that a social worker must take when preparing a report must be made on the recommendation of the Minister responsible for the administration of the Oranga Tamariki Act 1989 after consultation with the Minister of Justice and being satisfied that the actions and steps are reasonably necessary to

identify any risk that the intended parents may cause serious harm to a surrogate-born child.

Part 3

Amendments to Status of Children Act 1969

Clause 18 provides that *Part 3* amends the Status of Children Act 1969 (the **principal Act**).

Clause 19 replaces section 2 of the principal Act, which is the interpretation provision. *New section 2* now includes definitions for adoption order, Registrar-General, and surrogacy arrangement. The definition of surrogacy arrangement is the same as the definition for this term inserted into section 5 of the Human Assisted Reproductive Technology Act 2004 by *clause 10D(1)*.

Clause 19A inserts *new section 2AA*, which relates to transitional, savings, and related provisions set out in *new Schedule 1* (inserted by *clause 19J*).

Clause 19B amends section 5 of the principal Act to insert *new subsection (IAAA)*, which provides that the presumptions as to parenthood in section 5 do not apply in respect of surrogate-born children.

Clause 19C inserts *new section 7AAA* to provide that sections 7 to 10 of the principal Act (which relate to paternity) do not apply in respect of surrogate-born children.

Clause 19D is a technical amendment that repeals the definition of Registrar-General in section 9(4) of the principal Act. This definition is not required because Registrar-General is now defined in the interpretation provision (*see clause 19*, which amends section 2 of the principal Act).

Clause 19E is also a technical amendment and removes references in section 11 of the principal Act to the definition of Registrar-General in section 9(4) of the principal Act.

Clause 19F amends section 12 of the principal Act to clarify that the amendments set out in the Schedule of the principal Act are amendments arising from Part 1 of the principal Act (and not from *new Part 3* inserted by *clause 19I*). Amendments arising from *new Part 3* are set out in *new Schedule 3* of the principal Act (inserted by *clause 19L*).

Clause 19G amends section 13 of the principal Act so that the purpose of Part 2 of the principal Act is to remove uncertainty about the status of children conceived as a result of an assisted reproductive procedure that is not performed in connection with a surrogacy arrangement. The status of children born as a result of an assisted reproductive procedure performed in connection with a surrogacy arrangement is dealt with in *new Part 3* of the principal Act (inserted by *clause 19I*).

Clause 19H inserts *new section 13A* into Part 2 of the principal Act to make it clear that Part 2 of the principal Act does not apply in respect of surrogate-born children.

Clause 19I inserts *new Part 3* into the principal Act, which relates to the parentage of children born as a result of surrogacy arrangements. This Part comprises 6 subparts—

- *new subpart 1*, comprising *new sections 30 to 40*, which sets out general provisions relating to transfer of parentage:
- *new subpart 2*, comprising *new sections 41 to 45*, which provides for the transfer of parentage by operation of law:
- *new subpart 3*, comprising *new sections 46 to 60*, which provides for the transfer of parentage by court order:
- *new subpart 4*, comprising *new sections 61 to 65*, which provides for declarations of parentage:
- *new subpart 5*, comprising *new sections 66 and 67*, which provides for the recognition of certain overseas parentage determinations:
- *new subpart 6*, comprising *new sections 68 and 69*, which sets out other provisions.

New section 28 provides that the purposes of *new Part 3* are to—

- determine the parentage of surrogate-born children; and
- provide for the transfer of parentage of surrogate-born children and set out the effect of a transfer of parentage; and
- provide for declarations of parentage and set out the effect of a declaration; and
- provide for the recognition of certain overseas parentage determinations.

New section 29 is an interpretation provision and defines terms used in *new Part 3*, including court, intended parents, parentage order, parties, provider, surrogate, and surrogate-born child. The definitions of provider, intended parents, surrogate, and surrogate-born child are the same as the definitions for those terms in section 5 of the Human Assisted Reproductive Technology Act 2004 (as inserted by *clause 10D*).

New section 30 provides that the surrogate of a surrogate-born child is the sole parent of the child until parentage of the child is transferred, a declaration of parentage is made in respect of the child, or an adoption order is made in respect of the child under which the surrogate ceases to be a parent of the child. This is the case even if the surrogate had a partner at the time the child was conceived, during the gestation of the child, or when the child was born.

New section 31 provides that the surrogate of a surrogate-born child is the sole guardian of the child until parentage of the child is transferred, a declaration of parentage is made in respect of the child, an order is made removing the surrogate as a guardian of the child, 1 or more other persons are appointed guardians of the child, or an adoption order is made in respect of the child under which the surrogate ceases to be a parent of the child. However, if the surrogacy arrangement was approved by the ethics committee or review panel, the intended parents are additional guardians of the child. The intended parents cease to be guardians of the surrogate-born child when parentage of the child is transferred, an application for a parentage order in respect of the child is determined by the court, an order is made removing the intended parents as guardians of the child, an order is made that has the effect of suspending the intended parents as guardians of the child, or an adoption order is made in respect of the child.

New section 32 provides that the court may appoint 1 or more persons as additional guardians of the child. The appointment of a guardian by the court ceases to have effect if parentage of the child is transferred or a declaration of parentage is made in respect of the child. However, this section does not limit specified provisions of the Care of Children Act 2004, the Oranga Tamariki Act 1989, or the Adoption Act 1955 under which the appointment may cease to have effect.

New section 33 applies to intended parents who, under *new section 31(2)*, are additional guardians of a surrogate-born child. *New section 33* provides that the court may make an order removing 1 or both of the intended parents as guardians of the surrogate-born child if it is satisfied that the order will serve the best interests of the surrogate-born child. An order may only be made on an application of the surrogate, an intended parent, or a person who has been granted leave by the court to make the application.

New section 34 provides that parentage of a surrogate-born child may only be transferred from the surrogate to the intended parents by—

- operation of law under *subpart 2 of new Part 3*; or
- a parentage order made under *subpart 3 of new Part 3*.

Query for submitters

6. Should there be an upper time limit for the initiation or completion of a transfer of parentage by operation of law or by a parentage order? If so, what should the time limit be? Should an older surrogate-born child be able to apply for a parentage order, or have an exclusive right to apply for a parentage order?

New section 35 sets out the effect of a transfer of parentage. The effect is that—

- the child becomes the child of the intended parents; and
- the child ceases to be the child of the surrogate; and
- the intended parents become the parents and guardians of the child; and
- the surrogate ceases to be a parent and guardian of the child.

Other familial relationships are determined in accordance with the above.

New section 36 provides that, for certain purposes, a surrogate-born child is taken to have both the familial relationships that existed before parentage was transferred and the familial relationships that resulted from the transfer of parentage. These purposes are for determining whether persons are within any prohibited degrees of civil union or marriage and for applying the law relating to a sexual offence where a familial relationship is relevant.

Query for submitters

7. After a surrogate-born person's parentage has transferred to the intended parents, in what circumstances should a marriage or civil union be prohibited between the surrogate-born person and the surrogate or a member of the surrogate's family? Is the approach in *new section 36* appropriate, or could a less restrictive approach be appropriate? For example, should a surrogate-born person who has no genetic connection to their surrogate and whose parentage has been transferred be able to enter into a civil union or marriage with a person who is a child of the surrogate?

New section 37 provides that the transfer of parentage does not have effect to deprive a surrogate-born child of any vested or contingent property rights acquired by the child before the transfer of parentage.

Query for submitters

8. Should a transfer of parentage have any other legal effects?

New section 38 provides for the interpretation to be given to references to mother, father, or mother and father in the context of surrogate-born children whose parentage has been transferred, or in respect of whom a declaration of parentage has been made or an overseas parentage determination is recognised.

New section 39 provides for the interpretation to be given to references to blood relationship in the context of surrogate-born children whose parentage has been transferred, or in respect of whom a declaration of parentage has been made or an overseas parentage determination is recognised.

New section 40 provides for the interpretation to be given to references to natural child and natural parent in the context of surrogate-born children whose parentage has been transferred, or in respect of whom a declaration of parentage has been made or an overseas parentage determination is recognised.

New section 41 provides for the parentage of a surrogate-born child to be transferred by operation of law. Parentage is transferred by operation of law if—

- the surrogacy arrangement has been approved by the ethics committee or review panel; and
- the surrogate-born child is in the care of the intended parents; and
- the surrogate has made a statutory declaration in accordance with *new section 42*.

Parentage is transferred from the surrogate to the intended parents immediately upon the intended parents receiving the surrogate's declaration.

Queries for submitters

9. Do you agree that the transfer of parentage by operation of law should take effect when the intended parents receive the surrogate's signed declaration? Or should the transfer of parentage by operation of law take effect on the date that the surrogate signs the declaration, or at some other time?

10. Should a transfer of parentage by operation of law only be available in respect of a surrogate-born child who is born in New Zealand?

New section 42 sets out the matters that must be verified in a surrogate's statutory declaration, including that the surrogacy arrangement has been approved, any conditions on an approval have been satisfied, and the surrogate consents to relinquish the parentage and guardianship of the child. The declaration may not be made earlier than 7 days after the birth of the child and must be in a form approved by the Registrar-General. It must be made before a lawyer who must certify that before the surrogate made the declaration the effect and implications of the declaration was explained to them.

New section 43 provides that, if the surrogacy arrangement did not involve a provider, the surrogate must provide to the intended parents certain information that is required by the Births, Deaths, Marriages, and Relationships Registration Act 2021 for the purposes of registering the child's birth. The surrogate must provide this information at the same time as providing their statutory declaration or immediately afterwards.

New section 44 provides for the situation where 1 of the intended parents dies before parentage of the surrogate-born child is transferred and the child is in the care of the surviving intended parent. In this case, parentage of the surrogate-born child may be transferred to the surviving intended parent and the deceased intended parent.

New section 45 provides for the transfer of parentage by operation of law to be recorded in a court order. On receipt of an application from the surrogate, 1 or both of the intended parents, or the surrogate-born child, the court may make an order on the papers if it is satisfied that the parentage of the surrogate-born child has transferred by operation of law. The order is, for all purposes, treated as a parentage order made under *new section 58*.

New section 46 sets out when an application for a parentage order may be made to the Family Court. An application may be made if at least 1 of the parties to the surrogacy arrangement is habitually resident in New Zealand when the application is made or has been granted leave by the court to apply. An application may not be made if an application for a parentage order has previously been made in respect of the child and that application has been determined, or is awaiting determination, or if an application for an adoption order has been made in respect of the child and that application has been determined, or is awaiting determination.

New section 47 sets out when the court may grant a party leave to apply for a parentage order. A Judge must be satisfied that the court is the most appropriate forum to determine the parentage of the child and that having the court determine the parentage of the child is in the child's best interests. In considering whether the court is the most appropriate forum to determine the parentage of the child, the Judge must take into account certain matters, including the place of the surrogate's habitual residence, the place of the intended parents' habitual residence, and whether a similar or related proceeding in respect of the child has been commenced in another jurisdiction.

New section 48 provides that an application for a parentage order may be made by 1 of the intended parents, both of the intended parents jointly, or the surrogate. If any party has died, the application may be made by the party's personal representative on behalf of the party.

New section 49 provides that, if the surrogacy arrangement did not involve a provider and the child is alive, the applicant must include in or with their application so much of the prescribed information as is known to them. The prescribed information is information prescribed by regulations that is required by the Births, Deaths, Marriages, and Relationships Registration Act 2021 to be provided by the Registrar of the court to the Registrar-General when a parentage order is made. The information must be, or include, information about the surrogate and any donor (not being an intended parent) who donated genetic material that resulted in the birth of the surrogate-born child.

New section 50 provides that, before an application for a parentage order is determined by the court, the chief executive of Oranga Tamariki—Ministry for Children must arrange for a social worker to prepare a parentage report. However, a parentage report is not required if the surrogate-born child is over the age of 18 years or the

child was born before the commencement of this section. The report must include an assessment of any of the matters in *new section 57* specified and any other specified matters. The report may also include an assessment of any other matters that the social worker considers relevant to the application. A copy of the report must be given to lawyers for the parties (or to the parties if they are not represented), any lawyer appointed to represent the surrogate-born child, and any lawyer appointed to assist the court. The social worker may be called as a witness.

New section 51 provides that, before determining an application for a parentage order, the court may also obtain, in respect of the surrogate-born child, any cultural, medical, and psychiatric report. The court may do so only if it is satisfied of certain matters, including that the report will provide information essential to the case and that the report is the best source of the information. A copy of any report must be given to lawyers for the parties (or to the parties if they are not represented), any lawyer appointed to represent the surrogate-born child, and any lawyer appointed to assist the court.

New section 52 is about payment of the fees and reasonable expenses incurred in respect of a report obtained under *new section 51*.

New section 53 provides for the appointment of a lawyer to represent a surrogate-born child in proceedings if the court has concerns for the safety or well-being of the child and considers an appointment necessary.

New section 54 requires a lawyer who is appointed to represent a surrogate-born child, so far as it is reasonably practicable to do so having regard to the age and maturity of the child, to explain the nature of the proceedings to the child.

New section 55 provides for the appointment of a lawyer to assist the court.

New section 56 is about payment of the fees and expenses of a lawyer appointed to represent a child or to assist the court.

New section 57 sets out the matters that the court may take into account when deciding whether to make a parentage order. These matters include the intentions of the parties when entering into the surrogacy arrangement in relation to the future parentage of the child, whether the parties consent to the transfer of parentage, the arrangements in place for preserving the child's genetic and gestational origins and whakapapa and for the child to have access to this information, and the value of the child having continuity in their care, development, and upbringing. Additional matters are set out in *new section 57(3)* if the surrogacy arrangement was entered into outside New Zealand, the child was conceived outside New Zealand, or the child was born outside New Zealand.

New section 58 provides that the court may make a parentage order transferring the parentage of a surrogate-born child from the surrogate to either or both of the intended parents if the court is satisfied that the order promotes the welfare and best interests of the child.

New section 59 requires that, as soon as practicable after a parentage order is made, a Registrar of the court must notify the Registrar-General that the order has been made

and provide the information required by the Births, Deaths, Marriages, and Relationships Registration Act 2021 relating to the identity of the surrogate-born child.

New section 60 provides for the destruction of information provided to the court under *new section 49* if no parentage order is made.

New section 61 provides that an application may be made to the Family Court for a declaration of parentage declaring that a parent-child relationship exists between a surrogate-born child and the surrogate's partner. The term surrogate's partner means a person who was the spouse, civil union partner, or de facto partner of the surrogate when the surrogate-born child was conceived, or during the gestation of the child, or when the child was born, or at any or all of these times. An application for a declaration may be made by the surrogate or the surrogate's partner if they are habitually resident in New Zealand.

Query for submitters

11. Are declarations of parentage needed and, if so, in what circumstances might an application for a declaration of parentage be made? Or should the provisions of *subpart 4 of new Part 3* be removed from the Bill?

New section 62 provides that an application for a declaration may be made in respect of a surrogate-born child only after the court has declined to make a parentage order transferring the parentage of the child.

New section 63 applies the provisions of the Family Proceedings Act 1980 relating to parentage tests.

New section 64 provides that the court may make a declaration of parentage if it is satisfied that a parent-child relationship exists between the surrogate-born child and the surrogate's partner.

New section 65 provides that if a declaration of parentage is made declaring a named person a parent of a surrogate-born child, then, for all purposes,—

- the named person is a parent and guardian of the child and is deemed to have been a parent and guardian of the child from the child's birth; and
- the child is a child of the named person and is deemed to have been a child of that person from birth.

New section 66 provides for the recognition of certain overseas parentage determinations. If the conditions listed in *new section 66(1)* are satisfied, an overseas parentage determination is recognised in New Zealand and has the same effect as if it were a transfer of parentage by operation of law or by a parentage order. The conditions include that the child was born outside New Zealand as a result of a surrogacy arrangement, the parties to the surrogacy arrangement were not habitually resident in New Zealand when they entered into the surrogacy arrangement or when the child was born, and that the overseas parentage determination is a final determination and is legally valid in the place in which it was made. An overseas parentage determination may be a parentage order or other judicial determination made outside New Zealand, a parentage declaration declared outside New Zealand, an administrative determination or process outside New Zealand, or the operation of law outside New Zealand.

Query for submitters

12. Are there other circumstances in which an overseas parentage determination should be recognised in New Zealand?

New section 67 provides that if the Secretary of Internal Affairs has relied on an overseas parentage determination for the purposes of determining an application for New Zealand citizenship in respect of a surrogate-born child, or an application for a New Zealand travel document in respect of a surrogate-born child, the Secretary must give to the Registrar-General certain information that the Secretary holds in relation to the identity of the child. This information includes any information held by the Secretary about the surrogate and any donor (not being a parent) whose donation resulted in the surrogate's pregnancy.

Query for submitters

13. Should identity information about a surrogate-born child be collected at this point?

New section 68 provides that rules may be made under section 16A of the Family Court Act 1980 relating to the practice and procedure of the court in proceedings under *new Part 3*.

New section 69 consequentially amends the legislation specified in *new Schedule 3* as set out in that schedule.

Clause 19J inserts *new Schedule 1* into the principal Act, which appears in *Schedule 1* of this Bill. *New Schedule 1* sets out transitional, savings, and related matters.

Clause 19K replaces the heading of the Schedule of the principal Act so that it becomes Schedule 2 and indicates that this schedule relates to the consequential amendments arising from Part 2 of the principal Act as enacted.

Clause 19L inserts *new Schedule 3* into the principal Act, which appears in *Schedule 2* of this Bill. *New Schedule 3* sets out amendments to other enactments consequential on *new Part 3*.

Part 3A

Amendments to Citizenship Act 1977

Clause 19M provides that *Part 3A* amends the Citizenship Act 1977 (the **principal Act**).

Clause 19N amends section 2 of the principal Act, which is the interpretation provision. Definitions of child, surrogacy arrangement, surrogate-born child, and surrogate are inserted. The definitions of the latter 3 terms are the same as the definitions for those terms inserted in section 5 of the Human Assisted Reproductive Technology Act 2004 (by *clause 10D*).

Clause 19O amends section 3(1) of the principal Act so that, for the purposes of the principal Act, the general presumption of fatherhood does not apply in respect of surrogate-born children.

Clause 19P inserts *new section 3A* into the principal Act, which, for the purposes of the principal Act, determines the parentage of surrogate-born children. A person who

is a New Zealand citizen, or who is entitled to be in New Zealand indefinitely or reside indefinitely in the Cook Islands, Niue, or Tokelau, is treated as a parent of a surrogate-born child if the parentage of the child has been transferred to them or the person is declared to be a parent of the child by a declaration of parentage. The terms mother and father used in the principal Act are to be read accordingly.

New section 3A also sets out that, for the purposes of the principal Act, a surrogate-born child is to be treated as having been born at the place, and on the date, as follows:

- if parentage of the child was transferred by operation of law under *subpart 2 of new Part 3* of the Status of Children Act 1969, the child is to be treated as having been born in New Zealand on the date parentage was transferred:
- if parentage of the child was transferred by operation of law under *subpart 3 of new Part 3* of the Status of Children Act 1969, the child is to be treated as having been born in New Zealand on the date the parentage order was made:
- if parentage of the child was transferred by an overseas parentage determination that is recognised in New Zealand under *subpart 5 of new Part 3* of the Status of Children Act 1969, the child is to be treated as having been born at the place and on the date the determination was made:
- if a declaration of parentage has been made in respect of the child under *subpart 4 of new Part 3* of the Status of Children Act 1969, the child is to be treated as having been born in New Zealand on the date the declaration was made.

Clause 19Q inserts *new section 6(7) and (8)* into the principal Act to provide that a person who is a New Zealand citizen by birth does not lose their New Zealand citizenship if the person's parentage is transferred under *new Part 3* of the Status of Children Act 1969.

Clause 19R inserts *new section 7(5) and (6)* into the principal Act to provide that a person who is a New Zealand citizen by descent does not lose their New Zealand citizenship if the person's parentage is transferred under *new Part 3* of the Status of Children Act 1969.

Part 5

Amendments to Births, Deaths, Marriages, and Relationships Registration Act 2021

Clause 25A provides that *Part 5* amends the Births, Deaths, Marriages, and Relationships Registration Act 2021 (the **principal Act**).

Clause 25B amends the purpose of the principal Act set out in section 3. The purpose of the principal Act is extended to include requiring the notification, registration, and verification of information relating to transfers of parentage of surrogate-born children so as to provide an official record of the parentage of these children.

Clause 25C amends section 4 of the principal Act, which is the interpretation section, to—

- define established procedure, surrogacy arrangement, surrogate, and surrogate-born child the same as in section 5 of the Human Assisted Reproductive Technology Act 2004; and
- define AHR procedure the same as in section 15 of the Status of Children Act 1969 (which includes established procedures); and
- define restricted surrogacy information.

The definition of birth information in section 4 of the principal Act is amended to exclude restricted surrogacy information. The effect of this is that the identity information of a child born as a result of a surrogacy arrangement does not form part of the child's birth information and so cannot be accessed as birth information. This identity information of a surrogate-born child is instead restricted surrogacy information that sits alongside the child's birth information in the registry maintained by the Registrar-General.

Section 4 of the principal Act is also amended to include the transfer of parentage under *subpart 2 or 3 of new Part 3* of the Status of Children Act 1969 and the receipt by the Registrar-General of information from the Secretary of Internal Affairs under *new section 67* of the Children Act 1969 as registrable events, and to include restricted surrogacy information in the definition of restricted information. The effect of the latter is that the rules in the principal Act relating to access to restricted information will apply to restricted surrogacy information.

Clause 25D amends section 12 of the principal Act, which requires the parents of a child to notify the Registrar-General of the child's birth. The effect of the amendment is to provide that the surrogate of a surrogate-born child who is the sole parent of the child may notify the Registrar-General of the child's birth.

Clause 25E inserts *new section 12A* into the principal Act to require the person or persons to whom the parentage of a surrogate-born child is transferred under *subpart 2 or 3 of new Part 3* of the Status of Children Act 1969 to notify the Registrar-General of the birth of the child. They must do this as soon as practicable after becoming the parents of the child and even if the birth of the child has already been notified under section 12 of the principal Act by the surrogate.

Clause 25F inserts *new section 16A* into the principal Act to require that, on receipt of the parents notification of the birth of a surrogate-born child, the Registrar-General must register the birth of the child. If the birth has already been registered as a result of the Registrar-General receiving a notification of birth from the surrogate, that earlier registration is superseded and must be deleted.

Clause 25G amends section 17 of the principal Act to provide that the Registrar-General may register the birth of a child that occurs outside New Zealand if—

- the parentage of the child has been transferred by operation of law under *subpart 2 of new Part 3* of the Status of Children Act 1969 and the parents of the

child have provided to the Registrar-General the information required by *new section 30B(2) or 30C(2)* of the principal Act (inserted by *clause 25J*); or

- a parentage order has been made in respect of the child under *subpart 3 of new Part 3* of the Status of Children Act 1969 and a copy of the order has been provided to the Registrar-General under *new section 30D(2) or 30E(2)* of the principal Act (inserted by *clause 25J*).

Clause 25H amends section 20 of the principal Act, which requires the Registrar-General to register information about the identity of a parent or parents who notify the birth of a child. Section 20(2) of the principal Act sets out the circumstances in which the identity of a parent who did not notify the birth of a child must also be registered. The amendment is to section 20(2) to extend these circumstances to include identity information relating to a person in respect of whom a declaration of parentage has been made under *subpart 4 of new Part 3* of the Status of Children Act 1969 declaring that a parent-child relationship exists between the person and the child.

Clause 25I amends section 30 of the principal Act to afford a right of appeal to the Family Court in respect of any decision made by the Registrar-General under—

- section 17 of the principal Act, relating to the registration of the birth of a child outside New Zealand in respect of whom parentage has been transferred under *subpart 2 or 3 of new Part 3* of the Status of Children Act 1969; or
- section 20 of the principal Act, relating to the registration of identity information relating to a person in respect of whom a declaration of parentage has been made under *subpart 4 of new Part 3* of the Status of Children Act 1969; or
- *new section 106A* of the principal Act (inserted by *clause 25O*), relating to access to restricted surrogacy information.

Clause 25J inserts *new subpart 2A* into Part 2 of the principal Act, which relates to surrogate-born children. This new subpart comprises *new sections 30A to 30I*.

New section 30A is the interpretation section for *new subpart 2A* and defines non-provider-assisted surrogacy arrangement, provider, and provider-assisted surrogacy arrangement.

New section 30B applies if—

- the parentage of a child born as a result of a surrogacy arrangement has been transferred by operation of law under *new subpart 2 of Part 3* of the Status of Children Act 1969; and
- the surrogacy arrangement did not involve the performance of an AHR procedure or an established procedure by a provider.

If this section applies, the parents of the child must, at the same time as notifying the Registrar-General of the birth of the child, provide certain information relating to the transfer of parentage, the surrogate, and each donor who donated genetic material that resulted in the surrogate's pregnancy (but who is not a parent of the child).

New section 30C applies if—

- the parentage of a child born the result of a surrogacy arrangement has been transferred by operation of law under *new subpart 2 of Part 3* of the Status of Children Act 1969; and
- the surrogacy arrangement did involve the performance of an AHR procedure or an established procedure by a provider.

If this section applies, the parents of the child must, at the same time as notifying the Registrar-General of the birth of the child, provide a copy of the surrogate's statutory declaration made in accordance with *new section 42* of the Status of Children Act 1969 and a statement of the date on which parentage of the child was transferred. Information relating to the surrogate and any donor is not required to be provided by the parents in this case because this information will be provided by the provider under *new Part 3A* of the Human Assisted Reproductive Technology Act 2004.

New section 30D applies if—

- the parentage of a child born as a result of a surrogacy arrangement has been transferred by a parentage order under *new subpart 3 of Part 3* of the Status of Children Act 1969; and
- the surrogacy arrangement did not involve the performance of an AHR procedure or an established procedure by a provider.

If this section applies, the Registrar of the court in which the parentage order was made must provide to the Registrar-General a copy of the parentage order and confirmation of the date on which it was made, details about the child, and the information provided to the court under *new section 49* of the Status of Children Act 1969 (if the child is not deceased).

New section 30E applies if—

- the parentage of a child born as a result of a surrogacy arrangement has been transferred by a parentage order under *new subpart 3 of Part 3* of the Status of Children Act 1969; and
- the surrogacy arrangement did involve the performance of an AHR procedure or an established procedure by a provider.

If this section applies, the Registrar of the court in which the parentage order was made must provide to the Registrar-General a copy of the parentage order and confirmation of the date on which it was made, and the names of the child, surrogate, and persons to whom parentage of the child has been transferred. Further information about the child and surrogate, and information about any donor, is not required to be provided by the Registrar of the court in this case because this information will be provided by the provider under *new Part 3A* of the Human Assisted Reproductive Technology Act 2004.

New section 30F requires the Registrar-General to register alongside the birth record of a surrogate-born child the identity information received in respect of the child under any of *new sections 30B, 30C, 30D, and 30E* of the principal Act and *new section 66G* of the Human Assisted Reproductive Technology Act 2004.

New section 30G requires the Registrar-General to record in the register all information that the Registrar-General received from the Secretary of Internal Affairs under *new section 67* of the Status of Children Act 1969.

New section 30H requires the Registrar-General to accept any information received from a surrogate or a donor that updates their identity information and to register or record that information.

New section 30I provides that the Registrar-General is not responsible for the accuracy of any information registered under *new section 30F or 30H*, or recorded under *new section 30G or 30H*.

Clause 25K amends section 88(1) of the principal Act to provide that only a person who confirms their identity as required by section 88(2) may request access to information under *new section 106A* of the principal Act (inserted by *clause 25O*).

Clause 25L amends section 91 of the principal Act, which provides that persons whose identity is confirmed may request access to certain information in relation to named persons, including information relating to the person's birth. The effect of the amendment is that no request may be made under this section in respect of restricted surrogacy information.

Clause 25M inserts *new section 92A* into the principal Act, which provides a mechanism for the informing persons that there is restricted surrogacy information registered or recorded in the register alongside their birth record. If a person born the result of a surrogacy arrangement requests a copy of information from their birth record and there is restricted surrogacy information registered or recorded alongside their birth information, the Registrar-General must, when providing the person with a copy of their birth information, notify the person of the existence of the restricted surrogacy information and how they may access the information.

Clause 25N amends section 97 of the principal Act, which provides that certain departments and organisations may request the Registrar-General to search for, or provide, information in the registry for a purpose that is in the public interest or the interest of a named person even if the information is subject to a non-disclosure direction. The amendment clarifies that a request may be made under this section in respect of restricted surrogacy information.

Clause 25O makes a technical amendment to section 98(1) of the principal Act to correct a cross-reference error. An amendment is also made to section 98(3) of the principal Act so that the Registrar-General need not keep in the access register any record of a request for access to restricted surrogacy information.

Query for submitters

14. Should there be a mechanism to alert surrogate-born people to the existence of their restricted information? If so, is the notification mechanism proposed in *new section 92A* appropriate? Or is there an alternative mechanism that would better balance the right to identity information and the right to privacy of personal information?

Clause 25P inserts *new section 106A* into the principal Act to provide that a surrogate-born child, surrogate, and donor may have access to restricted surrogacy information relating to themselves that is registered alongside the birth record of the surrogate-born child. Other specified persons may be afforded access at the discretion of

the Registrar-General, for example a personal representative of a surrogate-born child, or a medical practitioner if the information is relevant for the purpose of providing medical treatment or advice to any person.

Clause 25Q amends section 109 of the principal Act so that the Registrar-General may provide access to restricted surrogacy information on the order of the Family Court, District Court, or High Court if there is any question about the validity of the parentage of a surrogate-born child.

Clause 25R amends section 126 of the principal Act to provide that the Registrar-General may not delegate to any Registrar the Registrar-General's powers under *new section 106A* of the principal Act (inserted by *clause 25P*) that relate to access to restricted surrogacy information.

Clause 25S is a technical amendment to repeal the definition of AHR procedure in section 132(3) of the principal Act. This definition is not necessary because this term is defined in section 4 of the principal Act (*see clause 25C*).

Clause 25T consequentially amends the legislation specified in *Schedule 3* of this Bill as set out in that schedule.

Part 5A

Amendments to Income Tax Act 2007

Clause 25U provides that *Part 5A* amends the Income Tax Act 2007 (the **principal Act**). The purpose of the amendments to the principal Act is to clarify how payments made to a surrogate for the surrogate's reasonable surrogacy costs (within the meaning of *new section 23D* of the Human Assisted Reproductive Technology Act 2004 (inserted by *clause 10I*) interact with income tax liabilities and the working for families tax credits.

Clause 25V inserts *new section CW 63A* into the principal Act to provide that only payments made to a surrogate for lost or diminished income (including any employer's superannuation contribution) are taxable.

Clause 25W amends section MB 13 of the principal Act to provide that only payments made to a surrogate for lost or diminished income (including any employer's superannuation contribution) are considered family scheme income.

Part 8

Amendments to other Acts

Subpart 1—Amendments to Adoption Act 1955

Clause 33 provides that *subpart 1 of Part 8* amends the Adoption Act 1955 (the **principal Act**).

Clause 34 inserts *new section 4A* into the principal Act, which sets out restrictions for the making of adoption orders in respect of children born as a result of a surrogacy

arrangement whose parentage has not been transferred from the surrogate to another person under the Status of Children Act 1969.

An adoption order cannot be made in respect of a child on the application of a person who is a party to the surrogacy arrangement unless the court is satisfied that—

- the parentage of the child is not able to be transferred to the person under *subpart 2 or 3 of Part 3* of the Status of Children Act 1969; or
- an application by the person under *subpart 3 of Part 3* of the Status of Children Act 1969 for a parentage order has been declined.

An adoption order cannot be made in respect of a child on the application of any other person unless the court is satisfied that—

- no party to the surrogacy arrangement is intending to seek a transfer of parentage of the child under *subpart 2 or 3 of Part 3* of the Status of Children Act 1969; or
- an application by a party to the surrogacy arrangement under *subpart 3 of Part 3* of the Status of Children Act 1969 for a parentage order has been declined.

Query for submitters

15. Do you agree with *new section 4A* proposed to be inserted in the Adoption Act 1955? Or do you have any other views on when a surrogate-born child should be able to be adopted?

Schedules

Schedule 1 inserts *new Schedule 1* into the Status of Children Act 1969 that sets out transitional, savings, and related provisions. It provides that—

- the parentage of a surrogate-born child born before the date on which Part 3 comes into force may be determined by a parentage order or an adoption order:
- the parentage of a surrogate-born child born on or after the date on which Part 3 comes into force may be determined by a transfer of parentage by operation of law, a parentage order, a declaration of parentage, or, in limited circumstances, an adoption order:
- a declaration of parentage may be made in respect of a surrogate-born child who is born before, on, or after the date on which Part 3 comes into force:
- an overseas parentage determination made in respect of a surrogate-born child born before, on, or after the date on which Part 3 comes into force may be recognised in New Zealand.

Schedule 2 inserts *new Schedule 3* into the Status of Children Act 1969 that sets out consequential amendments to enactments arising from *new Part 3* of the Status of Children Act 1969.

Schedule 3 sets out consequential amendments to enactments arising from the amendments to the Births, Deaths, Marriages, and Relationships Registration Act 2021 in Part 5.

Appendix C—Redrafted bill

DRAFT FOR CONSULTATION

Please note the following Parts have been deleted from the Bill as introduced:

Part 2, Amendments to Care of Children Act 2004:

Part 4, Amendments to Child Support Act 1991:

Part 6, Amendments to Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995:

Part 7, Amendments to Social Security (Exemptions under Section 105) Regulations 1998.

Improving Arrangements for Surrogacy Bill

Government Bill

Hon Nicole McKee

Improving Arrangements for Surrogacy Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Improving Arrangements for Surrogacy Act **2021**.

2 Commencement

- (1) This Act comes into force 12 months after Royal assent.
- (2) However,—
 - (a) **Section 10I**, to the extent that it relates to **new sections 23L to 23S** of the Human Assisted Reproductive Technology Act 2004, comes into force 18 months after Royal assent; and
 - (b) **Part 5A** comes into force on **1 April [year]**.

Part 1

Amendments to Human Assisted Reproductive Technology Act 2004

[Implements: ORs 46 to 50]

10A Principal Act

This Part amends the Human Assisted Reproductive Technology Act 2004.

10B Section 3 amended (Purposes)

After section 3(f), insert:

- (g) to provide for the approval of surrogacy arrangements:

- (h) to establish an information-keeping regime in relation to surrogacy arrangements to assist people born as a result of surrogacy arrangements to learn about their genetic and gestational origins and whakapapa.

10C Section 4 amended (Principles)

- (1) Replace section 4(a) with:
 - (a) the health and well-being of children born as a result of the performance of an assisted reproductive procedure, an established procedure, or a surrogacy arrangement should be an important consideration in all decisions about that procedure or arrangement:
- (2) After section 4(e), insert:
 - (ea) persons born as a result of a surrogacy arrangement should have the opportunity to learn about their genetic and gestational origins and whakapapa, and that information about them should be recorded and stored so that they may access it in the future:

[Implements: OR 28]

10D Section 5 amended (Interpretation)

- (1) In section 5, replace the definition of **surrogacy arrangement** with:

surrogacy arrangement means an arrangement or agreement, whether formal or informal, between a surrogate and intended parents under which—

 - (a) a surrogate will seek to become pregnant; and
 - (b) a child born as a result of the surrogate’s pregnancy is to become the child of the intended parents and cease to be the child of the surrogate; and
 - (c) the intended parents are to become the parents of, and assume responsibility for the care of, the child instead of the surrogate
- (2) In section 5, replace the definition of **valuable consideration** with:

valuable consideration includes a payment, a reward, a discount, an inducement, or a priority in the provision of a service
- (3) In section 5, insert in their appropriate alphabetical order:

intended parents means—

 - (a) the 2 persons who enter into a surrogacy arrangement under which it is agreed they will become the parents of a child born under the arrangement and assume responsibility for the care of the child; or
 - (b) the 1 person who enters into a surrogacy arrangement under which it is agreed they will become the sole parent of a child born under the arrangement and assume responsibility for the care of the child

review panel or **panel** means the review panel established and maintained under **section 23L**

surrogate means a person who enters into a surrogacy arrangement under which it is agreed the person will become, or try to become, pregnant and give birth to a child for the intended parents

surrogate-born child means a child born as a result of a surrogacy arrangement

[Implements: OR 46]

10E Section 12 replaced (Restriction on obtaining gametes from minors)

Replace section 12 with:

12 Restriction on obtaining and using gametes from minors

- (1) A person commits an offence if they obtain a gamete from an individual who is under 16 years.
- (2) It is a defence to a charge under **subsection (1)** if the defendant proves that they—
 - (a) obtained the gamete from the individual for the purpose of preserving the gamete; and
 - (b) the procedure was undertaken with consent given by a person in accordance with section 36 of the Care of Children Act 2004.
- (3) A person commits an offence if they use a gamete obtained from an individual when the individual is, or was, under 16 years.
- (4) It is a defence to a charge under **subsection (3)** if the defendant proves that the gamete was used with the consent of the individual, after the individual turned 16 years, for a lawful purpose.
- (5) A person who commits an offence against **subsection (1) or (3)** is liable on conviction to a term of imprisonment not exceeding 1 year or a fine not exceeding \$100,000, or both.

[Implements: OR 42]

10F Section 14 repealed (Status of surrogacy arrangements and prohibition of commercial surrogacy arrangements)

Repeal section 14.

10G Section 15 amended (Advertising for illegal action prohibited)

In section 15(1), replace “section 8 or section 13 or section 14” with “section 8, 13, or **23C**”.

10H New section 15A inserted (Interpretation)

In Part 2, after the subpart 2 heading, insert:

15A Interpretation

In this subpart,—

activity does not include an activity undertaken in connection with a surrogacy arrangement

assisted reproductive procedure does not include an assisted reproductive procedure performed in connection with a surrogacy arrangement.

10I New subpart 2A of Part 2 inserted

After section 23, insert:

Subpart 2A—Surrogacy arrangements

General provisions

23A Interpretation

In this subpart,—

applicant, in relation to an application for the approval of surrogacy arrangement, means the person or persons who made the application

income has the meaning given to it by section YA 1 of the Income Tax Act 2007

serious harm, in relation to a surrogate-born child, means—

- (a) physical, emotional, or sexual abuse of the child;
- (b) deprivation or ill-treatment of the child;
- (c) neglect or impairment of the child’s development or physical or mental or emotional well-being;
- (d) exposure to family violence (within the meaning of section 9 of the Family Violence Act 2018)

social worker has the meaning given to it by section 2(1) of the Oranga Tamariki Act 1989.

23B Status of surrogacy arrangements

- (1) A surrogacy arrangement is not illegal, but is not enforceable by or against any person.
- (2) However, an obligation under a surrogacy arrangement to pay or reimburse reasonable surrogacy costs (as defined in **section 23D**) is enforceable.
- (3) **Subsection (1)** does not affect **Part 3** of the Status of Children Act 1969.

[Implements: OR 37]

23C Commercial surrogacy arrangements prohibited

- (1) A person commits an offence if they are involved in a surrogacy arrangement that is a commercial surrogacy arrangement.
- (2) For the purposes of **subsection (1)**, a person is **involved in a commercial surrogacy arrangement** if the person gives or receives, or agrees to give or

receive, valuable consideration for their participation, or any other person's participation, or for arranging any other person's participation, in a surrogacy arrangement, but does not include valuable consideration given to—

- (a) a provider for any reasonable and necessary expenses incurred in relation to a surrogacy arrangement for any of the following purposes:
 - (i) collecting, storing, transporting, or using a human embryo or human gamete:
 - (ii) counselling 1 or more parties:
 - (iii) insemination or *in vitro* fertilisation:
 - (iv) ovulation or pregnancy tests; or
 - (b) a legal adviser for independent legal advice to a person who is, or who might become, a surrogate under a surrogacy arrangement; or
 - (c) a person who publishes by any means an advertisement, statement, notice, or other material that—
 - (i) states or implies that a person is willing to act as a surrogate without receiving valuable consideration; or
 - (ii) seeks a person who is willing to act as a surrogate without receiving valuable consideration; or
 - (iii) is intended, or likely to induce, a person to act as a surrogate without receiving valuable consideration; or
 - (d) a surrogate for reasonable surrogacy costs incurred (*see* **section 23D**).
- (3) A person who commits an offence against **subsection (1)** is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding \$100,000, or both.

[Implements: ORs 34, 41]

23D Meaning of reasonable surrogacy costs

- (1) **Reasonable surrogacy costs** are the reasonable costs of a surrogate associated with any of the following matters:
 - (a) becoming or trying to become pregnant:
 - (b) a pregnancy or birth:
 - (c) post-partum recovery:
 - (d) entering into, and giving effect to, a surrogacy arrangement.
- (2) Without limiting **subsection (1)**, the following are a surrogate's reasonable surrogacy costs:
 - (a) a reasonable medical cost incurred by the surrogate associated with any of the matters referred to in **subsection (1)(a) to (c)**:

- (b) a reasonable travel cost incurred by the surrogate, the surrogate's partner, or the surrogate's support person, as a result of the surrogacy arrangement:
- (c) a reasonable accommodation cost incurred by the surrogate, the surrogate's partner, or the surrogate's support person, as a result of the surrogacy arrangement:
- (d) a reasonable cost incurred by the surrogate relating to the care of the surrogate's dependants as a result of the surrogacy arrangement:
- (e) the cost of obtaining any product or service recommended by the surrogate's healthcare provider that is associated with any of the matters referred to in **subsection (1)(a) to (c)**:
- (f) the cost of any premium payable for health, disability, income protection, or life insurance obtained for the surrogate in connection with the surrogacy arrangement, or of any increase in premium for an existing insurance policy payable for the surrogate as a result of the surrogacy arrangement:
- (g) the amount of lost or diminished income (including any employer's superannuation contribution) because of leave taken during any of the following periods (less any parental leave payments received in the same period):
 - (i) a period of not more than 3 months during which the birth occurred or was expected to occur; or
 - (ii) any other period during the pregnancy when the surrogate was unable to work on medical grounds:
- (h) a reasonable out-of-pocket expense incurred by the surrogate as a direct result of the surrogacy arrangement (for example, maternity clothes, housework services, pet care).

[Implements: OR 35]

Approvals

23E Surrogacy arrangement involving assistance of provider must be approved

- (1) This section applies if a surrogacy arrangement involves the assistance of a provider performing an assisted reproductive procedure or an established procedure in connection with the arrangement.
- (2) If a surrogacy arrangement involves the assistance of a provider performing an assisted reproductive procedure in connection with the arrangement, the ethics committee's prior written approval of the following must be obtained:
 - (a) the surrogacy arrangement; and
 - (b) the assisted reproductive procedure.

- (3) If a surrogacy arrangement involves the assistance of a provider performing an established procedure in connection with the arrangement, the ethics committee's prior written approval of the surrogacy arrangement must be obtained.
- (4) A provider who contravenes **subsection (2) or (3)** commits an offence and is liable on conviction to a fine not exceeding \$50,000.

[Implements: OR 1]

23F Surrogacy arrangement not involving assistance of provider may be approved

If a surrogacy arrangement does not involve the assistance of a provider performing an assisted reproductive procedure or an established procedure in connection with the arrangement, the ethics committee's prior written approval of the surrogacy arrangement may be obtained.

[Implements: OR 2]

23G Application for approval

- (1) An approval under **section 23E or 23F** must be sought by an application to the ethics committee.
- (2) An approval under **section 23E(2)** for both a surrogacy arrangement and an assisted reproductive procedure must be sought in the same application.
- (3) An application must—
 - (a) be made in the form and manner approved by the ethics committee; and
 - (b) provide detail of the surrogacy arrangement for which approval is sought; and
 - (c) describe the assisted reproductive procedure for which approval is sought (if applicable).
- (4) If an approval is sought under **section 23E**, the application must be made by the provider.
- (5) If an approval is sought under **section 23F**, the application must be made jointly by the surrogate and intended parents or by a provider.

23H Report by social worker

- (1) Before determining an application made under **section 23G** for the approval of a surrogacy arrangement, the ethics committee must consider a report from a social worker that assesses whether the intended parents under the proposed surrogacy arrangement would pose any risk of serious harm to a child born as a result of the arrangement.
- (2) The chief executive of Oranga Tamariki—Ministry for Children must, on receiving a request from a provider or the ethics committee, arrange for the preparation of a social worker's report.
- (3) The social worker's report must—

- (a) be prepared in accordance with—
 - (i) any regulations made under section 76; and
 - (ii) any relevant guidelines issued by the chief executive of Oranga Tamariki; and
- (b) contain the information required by regulations made under section 76.

[Implements: OR 3]

23I Approval of ethics committee

- (1) The ethics committee may give its written approval of a surrogacy arrangement if it is satisfied that the surrogacy arrangement—
 - (a) meets all requirements set out in any guidelines issued by the advisory committee relevant to the arrangement; and
 - (b) is consistent with any relevant advice given by the advisory committee.
- (2) The ethics committee may give its written approval of any assisted reproductive procedure proposed to be undertaken in connection with the surrogacy arrangement if it is satisfied that the procedure—
 - (a) meets all requirements set out in any guidelines issued by the advisory committee relevant to the procedure; and
 - (b) is consistent with any relevant advice given by the advisory committee.
- (3) If the ethics committee declines an application for approval of a surrogacy arrangement or any assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement and the applicant has not applied under **section 23M** for a review of that decision, the committee may, at any time, for any reason that it considers appropriate, reconsider the application in the event that any relevant new information becomes available.

23J Conditions

- (1) The approval of a surrogacy arrangement or any assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement (the **approval**) may be given subject to any conditions the ethics committee considers appropriate.
- (2) The ethics committee may, on its own initiative or on the request of the applicant, change the conditions on the approval by doing any or all of the following:
 - (a) varying a condition imposed on the approval;
 - (b) revoking a condition imposed on the approval;
 - (c) imposing 1 or more new conditions on the approval.
- (3) The ethics committee may make any of the changes specified in **subsection (2)** on the request of the applicant if it is satisfied that the change is consistent

with any relevant guidelines or advice issued or given by the advisory committee before, on, or after the date on which the approval was given.

- (4) A decision of the ethics committee on the request of the applicant to make a change of the kind specified in **subsection (2)(a)** may be made by 1 or more members of the ethics committee authorised for the purpose.
- (5) The ethics committee may make any of the changes specified in **subsection (2)** on its own initiative only if the committee—
 - (a) is satisfied that the change is necessary to—
 - (i) ensure consistency with this Act, or any relevant guidelines or advice issued or given by the advisory committee before, on, or after the date on which approval was given; or
 - (ii) correct an error or omission made by the ethics committee; and
 - (b) has—
 - (i) informed the applicant why it is considering making the change; and
 - (ii) given the applicant a reasonable time to make written submissions and be heard on the matter, either personally or by their representative; and
 - (iii) considered any submissions made in that time.

23K Cancellation of approval

- (1) The ethics committee may cancel, in whole or in part, an approval given under **section 23I** if—
 - (a) it is satisfied that 1 or more conditions on the approval have been breached; or
 - (b) the surrogacy arrangement or any assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement—
 - (i) is inconsistent with any relevant guidelines issued or relevant advice given by the advisory committee before, on, or after the date on which the approval was given; or
 - (ii) is inconsistent with the description of the arrangement or procedure set out in the application in which the approval was sought; or
 - (iii) breaches, or has breached, this Act or any regulations made under section 76; or
 - (c) in the case of an approval relating to an assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement, the ethics committee has become aware that the procedure poses a serious risk to human health and safety.
- (2) Before cancelling an approval, the ethics committee must—
 - (a) inform the applicant why it is considering cancelling the approval; and

- (b) give the applicant a reasonable time to make written submissions and be heard on the matter, either personally or by their representative; and
 - (c) consider any submissions made in that time.
- (3) Cancellation of an approval is by written notice given or sent to the applicant and must—
- (a) state the date on which it takes effect (which must not be a date earlier than the date of the notice); and
 - (b) if the cancellation relates to only part of the approval, identify the part to which it relates.
- (4) If the ethics committee cancels the approval of an assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement,—
- (a) the procedure must be stopped; and
 - (b) any directions given by the ethics committee relating to how the procedure is to be stopped must be complied with.

Reviews

23L Review panel

- (1) The Minister must establish and maintain a review panel of any number of persons that may be required for the purpose of determining applications for review made under **section 23M**.
- (2) A panel member must be appointed by notice in writing that states—
- (a) the date on which the appointment takes effect; and
 - (b) the term of the appointment; and
 - (c) any conditions on the appointment.
- (3) The Minister must appoint 1 member as chairperson of the panel.
- (4) The Minister must appoint to the panel members who, in the Minister's opinion, have relevant skills or experience and, in appointing members, the Minister must have regard to the need for the panel to have available to it, collectively from its members, expertise in, knowledge of, or experience in—
- (a) assisted reproductive procedures; and
 - (b) articulating the interests of children; and
 - (c) mātauranga Māori and articulating Māori perspectives.
- (5) A panel member vacates office if they—
- (a) are removed by written notice given by the Minister; or
 - (b) resign by giving written notice to the Minister.
- (6) The Director-General of Health must provide the panel with administrative support for the purposes of assisting the panel to perform its functions.

[Implements: OR 4b, 4c, 4d]

23M Application for review of ethics committee's decision

- (1) The applicant for approval of a surrogacy arrangement or an assisted reproductive procedure proposed to be undertaken in connection with a surrogacy arrangement may apply to the review panel for a review of a decision made by the ethics committee to—
 - (a) decline the application; or
 - (b) impose conditions on the approval.
- (2) An application for review must be—
 - (a) made in a form and manner approved by the panel; and
 - (b) lodged with the chairperson of the panel within 28 working days after the date on which the applicant is notified of the decision.

[Implements: OR 4a]

23N Meetings of panel

- (1) The chairperson of the panel must, on receiving an application for review that is made in accordance with **section 23M(2)**, convene a meeting of the panel to consider the application.
- (2) The quorum necessary for the meeting is 3 panel members, which must include—
 - (a) the chairperson; and
 - (b) 2 panel members.
- (3) A decision of the panel on an application must be made by consensus or, if consensus cannot be reached, by a majority of members in attendance at a meeting.

[Implements: OR 4e]

23O Power to obtain information

The chairperson of the panel must request the ethics committee to supply to the chairperson the original of, or copies of, any records, reports, documents, or other information relating to any decision of the committee that is the subject of a review, and may—

- (a) make inquiries of, and request explanations from, the ethics committee as to the reasons for any decision of the committee that is the subject of a review; and
- (b) seek the advice of the advisory committee on any matter relevant to the review.

[Implements: OR 4g]

23P Power to dismiss trivial applications

The panel may at any time dismiss an application brought under **section 23M** if it is satisfied that the application is trivial.

[Implements: OR 4f]

23Q Review decisions

- (1) In determining an application, the panel must—
 - (a) look at the matter afresh on the basis of the information provided at the review; and
 - (b) decide the matter in accordance with any relevant guidelines or relevant advice issued or given by the advisory committee.
- (2) The panel must—
 - (a) confirm the ethics committee’s decision; or
 - (b) modify the ethics committee’s decision (including imposing any conditions or additional conditions, or removing any conditions); or
 - (c) replace the decision with any other decision that the panel considers appropriate in the circumstances of the case; or
 - (d) refer the decision back to the ethics committee for reconsideration with any directions or recommendations.
- (3) The panel must provide the applicant with a written copy of its determination, including the reasons for its determination, as soon as practicable after determining the application.

[Implements: OR 4j]

23R Panel must operate expeditiously

In performing its functions and exercising its powers, the panel must operate expeditiously having particular regard to the effect that undue delay may have on the reproductive capacity of individuals.

[Implements: OR 4i]

23S Ethics committee and advisory committee to be informed of decision

As soon as practicable after the panel determines an application, it must give a copy of its determination to—

- (a) the ethics committee; and
- (b) the advisory committee.

[Implements: OR 4m]

10J New subpart 2B heading in Part 2 inserted

Before the cross-heading above section 24, insert:

Subpart 2B—Moratoriums

10K New subpart 2C heading in Part 2 inserted

Before the cross-heading above section 27, insert:

Subpart 2C—Ethics committee

10L Section 27 amended (Designation of ethics committee)

- (1) In section 27(3)(b)(ii), replace “research.” with “research; and”.
- (2) After section 27(3)(b)(ii), insert:
 - (iii) 2 or more members with the ability to articulate the interests of children.
- (3) After section 27(3), insert:
- (3A) In designating a committee under this section, the Minister must have regard to the need for the committee to have available to it collectively from its members expertise in, knowledge of, or experience in mātauranga Māori and the ability to articulate Māori perspectives.

[Implements: OR 5]

10M Section 28 amended (Functions of ethics committee)

- (1) In section 28(1)(a), after “procedures”, insert “, surrogacy arrangements,”.
- (2) In section 28(1)(b), after “performed”, insert “, any surrogacy arrangements entered into,”.
- (3) In section 28(1)(c), after “procedures”, insert “, surrogacy arrangements,”.

10N Cross-heading above section 31 replaced

Replace the cross-heading above section 31 with:

Notices and annual reports

10O Section 31 amended (Information about ethics committee must be made public)

Repeal section 31(3).

10P New section 31A inserted (Annual reports of ethics committee)

After section 31, insert:

31A Annual reports of ethics committee

- (1) The ethics committee must, as soon as is reasonably practicable after each 12-month period ending on 30 June, give the Minister a report that includes the following information for the period to which the report relates:
 - (a) the name of the chairperson of the committee; and

- (b) the names of the members of the committee; and
 - (c) the number and kind of applications for approval received by the committee; and
 - (d) the number of applications seeking approval of a surrogacy arrangement received from each of the following classes of persons:
 - (i) providers;
 - (ii) other persons; and
 - (e) the number of applications referred to in each of **subparagraphs (i) and (ii) of paragraph (d)** that were—
 - (i) approved;
 - (ii) declined; and
 - (f) the types of conditions imposed on approved surrogacy arrangements and how frequently those conditions were imposed; and
 - (g) any negative feedback received about the committee’s approval process and any actions taken in response to that feedback; and
 - (h) the number of reviews undertaken by the review panel and the number of the decisions made by the ethics committee that the panel—
 - (i) confirmed;
 - (ii) modified;
 - (iii) replaced;
 - (iv) referred back to the ethics committee.
- (2) As soon as practicable after receiving a report, the Minister must present a copy of the report to the House of Representatives.
- (3) As soon as practicable after a copy of a report is presented to the House of Representatives, the ethics committee must publish the report on a publicly accessible Internet site maintained by or on behalf of the ethics committee.
- [Implements: ORs 6 and 7]**

10Q Section 34 amended (Appointment of members)

- (1) In section 34(4)(g), replace “1” with “2”.
- (2) After section 34(4), insert:
- (4A) In appointing persons to be members of the advisory committee under this section, the Minister must have regard to the need for the committee to have available to it collectively from its members expertise in, knowledge of, or experience in mātauranga Māori and the ability to articulate Māori perspectives.
- (3) Replace section 34(5) with:

- (5) One member appointed under subsection (4)(g) must, at the time of their appointment, be a board member, representative, or employee of the Children and Young People’s Commission.

[Implements: OR 5]

10R Section 35 amended (Functions of advisory committee)

- (1) Replace section 35(1)(a) with:
- (a) to issue guidelines and give advice to the ethics committee on any matter relating to the following and to keep the guidelines and advice under review:
- (i) assisted reproductive procedures:
- (ii) surrogacy arrangements:
- (iii) human reproductive research:
- (ab) to give advice to the review panel, if requested, in relation to an application for review made under **section 23M**:
- (2) After section 35(1)(b), insert:
- (ba) to provide the Minister with advice on aspects of, or issues arising out of, surrogacy arrangements:
- (3) In section 35(1)(c), after “procedures”, insert “, surrogacy arrangements,”.
- (4) After section 35(2)(a), insert:
- (ab) the outcomes of approved surrogacy arrangements; and

10S Cross-heading above section 42 replaced

Replace the cross-heading above section 42 with:

Notices and annual reports

10T Section 42 amended (Information about advisory committees to be made public)

Repeal section 42(3) and (4).

10U New section 42A inserted (Annual reports of advisory committee)

After section 42, insert:

42A Annual reports of advisory committee

- (1) The advisory committee must, as soon as is reasonably practicable after each 12-month period ending on 30 June, give the Minister a report that includes detail of its progress in carrying out its functions for the period to which the report relates.
- (2) As soon as practicable after receiving a report, the Minister must present a copy of the report to the House of Representatives.

- (3) As soon as practicable after a copy of a report is presented to the House of Representatives, the advisory committee must publish the report on a publicly accessible Internet site maintained by or on behalf of the advisory committee.

[Implements: OR 7]

10V New Part 3A inserted

After section 66, insert:

Part 3A

Information about surrogates, donors, and surrogate-born children

66A Application of Part

This Part applies to a provider who, on or after the commencement of this Part, assists with a surrogacy arrangement by performing an assisted reproductive procedure or an established procedure.

Information about surrogates and donors

66B Provider must obtain information about surrogates

- (1) A provider must ensure that they obtain the following details about a surrogate:
- (a) the surrogate's name; and
 - (b) the surrogate's contact details, including their address; and
 - (c) the date, place, and country of the surrogate's birth; and
 - (d) the surrogate's citizenship and residency status; and
 - (e) the surrogate's ethnicity and any other relevant cultural affiliation; and
 - (f) in the case of a Māori surrogate, the surrogate's hapū and iwi, to the extent that the surrogate is aware of those affiliations; and
 - (g) the surrogate's reasons for being a surrogate; and
 - (h) if the surrogate's ovum was used in conception,—
 - (i) the surrogate's height; and
 - (ii) the colour of the surrogate's eyes and hair; and
 - (iii) any aspects, considered significant by the provider, of the medical history of—
 - (A) the surrogate; and
 - (B) the surrogate's parents and grandparents; and
 - (C) the surrogate's children (if any); and
 - (D) the surrogate's siblings (if any).

- (2) The provider must accept any information that a surrogate offers that updates or corrects any of the information that the provider holds about the surrogate that was obtained under **subsection (1)**.

66C Provider must obtain information about donors

- (1) A provider must ensure that they obtain the following details about each donor who donated genetic material that resulted in the surrogate's pregnancy:
- (a) the donor's name; and
 - (b) the donor's contact details, including their address; and
 - (c) the date, place, and country of the donor's birth; and
 - (d) the donor's height; and
 - (e) the colour of the donor's eyes and hair; and
 - (f) the type of donation made by the donor; and
 - (g) the donor's ethnicity and any other relevant cultural affiliation; and
 - (h) in the case of a Māori donor, the donor's whānau, hapū, and iwi, to the extent that the donor is aware of those affiliations; and
 - (i) any aspects, considered significant by the provider, of the medical history of—
 - (i) the donor; and
 - (ii) the donor's parents and grandparents; and
 - (iii) the donor's children (if any); and
 - (iv) the donor's siblings (if any); and
 - (j) the donor's reasons for making the donation.
- (2) The provider must accept any information that a donor offers that updates or corrects any of the information the provider holds about the donor that was obtained under **subsection (1)**.

66D Providers to give advice to surrogates and donors before obtaining information under section 66B or 66C

- (1) **Subsection (2)** applies before a provider—
- (a) obtains information from a surrogate under **section 66B**; and
 - (b) obtains information from a donor under **section 66C**.
- (2) The provider must ensure that a surrogate and donor are each told—
- (a) about the information that the provider collects and keeps about them; and
 - (b) how long the information is kept; and
 - (c) why the information is obtained and kept; and

- (d) that the information is forwarded, under **section 66G**, to the Registrar-General for keeping, or is otherwise destroyed **under section 66H**; and
 - (e) that a person born as a result of a surrogacy arrangement has rights under the Births, Deaths, Marriages, and Relationships Registration Act 2021 to obtain information about the surrogate and donors; and
 - (f) of the importance of persons born as a result of a surrogacy arrangement knowing about the nature of their conception and gestation and about their whakapapa; and
 - (g) of the availability of counselling.
- (3) To avoid any doubt, this section does not limit any right or duty set out in the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996.

Information about surrogate-born children

66E Providers must have systems to ensure notification of children born as a result of surrogacy arrangement

A provider must ensure that, at all times, there is in place an effective system for being notified of, or otherwise becoming aware of, the birth of a child as a result of the surrogacy arrangement.

66F Provider to obtain information about surrogate-born children

A provider who learns of the birth of any child as a result of a surrogacy arrangement must promptly take all reasonably practicable steps to obtain from any person who knows of the child the following information:

- (a) the child's full name; and
- (b) the date and place of the child's birth; and
- (c) the names of the intended parents; and
- (d) the address of each intended parent.

Providers to give Registrar-General information relating to surrogacy arrangements

66G Providers must give Registrar-General information relating to surrogate-born children, surrogates, and donors

- (1) A provider must, as soon as reasonably practicable after obtaining the information referred to in **section 66F** in relation to a surrogate-born child,—
- (a) advise the Registrar-General of the birth of the child; and
 - (b) give to the Registrar-General, in the format and manner required by the Registrar-General for the purpose,—
 - (i) the information that the provider has obtained under **section 66B** about the surrogate; and

- (ii) the information that the provider has obtained under section 47 or **66C** about each donor whose donation resulted in the birth of the child; and
 - (iii) the information that the provider has obtained under **section 66F** about the surrogate-born child; and
 - (c) give the Registrar-General details of the provider's name and contact details.
- (2) If, after providing information to the Registrar-General under **subsection (1)**, a provider receives additional information under **section 66B(2) or 66C(2)** that updates or corrects any of that information given, the provider must promptly give the Registrar-General the updated or corrected information.

Destruction of information held by providers if no surrogate-born child

66H Destruction of information by provider

- (1) **Subsection (2)** applies if—
- (a) the provider assisting with a surrogacy arrangement performed an assisted reproductive procedure or an established procedure using a donation of an embryo or a cell made by 1 or more donors whose information was collected under section 47 or **66C**; and
 - (b) the donation of the embryo or cell did not result in a surrogate-born child.
- (2) If this subsection applies, the provider may destroy the information held by the provider about the surrogate and each donor whose donation was used in the assisted reproductive procedure or established procedure on the occurrence of any of the following events:
- (a) the termination (otherwise than by the birth of a living child) of the surrogate's pregnancy resulting from the implantation of a donated embryo or an embryo formed from the donated cell;
 - (b) the destruction before implantation of a donated embryo or an embryo formed from the donated cell;
 - (c) the destruction of a donated cell.

10W Section 76 amended (Regulations)

- (1) After section 76(1)(a), insert:
- (ab) prescribing, for the purposes of a social worker's report referred to in **section 23H** that is prepared in connection with a surrogacy arrangement,—
 - (i) the steps and actions that must be taken by the social worker in the course of preparing the report; and

- (ii) the information that must be gathered and considered in the course of preparing the report; and
 - (iii) the information that the report must contain; and
 - (iv) providing for any other matters in connection with the preparation of a social worker’s report:
- (ac) requiring providers that assisted with a surrogacy arrangement to keep information of a kind specified in the regulations (that is not identifying information) about the surrogacy arrangement, and requiring the provider to disclose that information, in a manner provided for by the regulations, to the advisory committee or any duly authorised representative of that committee or the Director-General of Health:
- (2) In section 76(1)(b), replace “paragraph (a)” with “paragraph (a) or **(ac)**”.
- (3) After regulation 76(2), insert:
- (2A) Regulations under **subsection (1)(ab)(i)** may be made only on the recommendation of the Minister responsible for the administration of the Oranga Tamariki Act 1989, if the Minister—
- (a) has consulted the Minister of Justice; and
 - (b) is satisfied that the actions and steps are reasonably necessary to identify any risk that the intended parents may cause serious harm to a child born as a result of a surrogacy arrangement.

Part 3

Amendments to Status of Children Act 1969

[Implements: OR 53]

18 Principal Act

This Part amends the Status of Children Act 1969.

19 Section 2 replaced (Interpretation)

Replace section 2 with:

2 Interpretation

In this Act, unless the context otherwise requires,—

adoption order means an adoption order made under the Adoption Act 1955

marriage includes a void marriage

Registrar-General means the Registrar-General appointed under section 124(1) of the Births, Deaths, Marriages, and Relationships Registration Act 2021

surrogacy arrangement has the same meaning as in section 5 of the Human Assisted Reproductive Technology Act 2004.

19A New section 2AA inserted (Transitional, savings, and related provisions)

After section 2, insert:

2AA Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

19B Section 5 amended (Presumptions as to parenthood)

Before section 5(1), insert:

(1AAA) This section does not apply in respect of a child born as a result of a surrogacy arrangement.

19C New section 7AAA inserted (Application of sections 7 to 10)

Before section 7, insert:

7AAA Application of sections 7 to 10

Sections 7 to 10 do not apply in respect of a child born as a result of a surrogacy arrangement.

19D Section 9 amended (Instruments of acknowledgment may be filed with Registrar-General)

Repeal section 9(4).

19E Section 11 amended (Regulations)

- (1) In section 11(2), delete “(as defined in subsection (4) of section 9)”.
- (2) In section 11(3), delete “(as so defined)”.

19F Section 12 amended (Repeals and consequential amendments)

- (1) In the heading to section 12, after “**amendments**”, insert “**arising from this Part**”.
- (2) In section 12(2), replace “the Schedule” with “Schedule 2”.

19G Section 13 amended (Purpose of this Part)

In section 13(a), after “procedures”, insert “that are not performed in connection with a surrogacy arrangement”.

19H New section 13A inserted (Part not to apply to surrogate-born children)

After section 13, insert:

13A Part not to apply to surrogate-born children

This Part does not apply to a child conceived as a result of an AHR procedure that was performed in connection with a surrogacy arrangement.

19I New Part 3 inserted

After section 27, insert:

Part 3**Parentage of children born as a result of surrogacy arrangements****28 Purposes of this Part**

The purposes of this Part are to—

- (a) determine the parentage of surrogate-born children; and
- (b) provide for the transfer of parentage of surrogate-born children and set out the effect of a transfer of parentage; and
- (c) provide for declarations of parentage to be made in respect of surrogate-born children and set out the effect of a declaration; and
- (d) provide for the recognition of certain overseas parentage determinations.

29 Interpretation

In this Part, unless the context otherwise requires,—

child refers to the status of a person in a relationship of a parent and child, and includes a person of that status even after the person has reached the age of 18 years

court means the Family Court of New Zealand and includes a Family Court Judge

established procedure has the same meaning as in section 5 of the Human Assisted Reproductive Technology Act 2004

ethics committee means the committee designated under section 27 of the Human Assisted Reproductive Technology Act 2004

guardian has the same meaning as in section 8 of the Care of Children Act 2004

intended parents has the same meaning as in section 5 of the Human Assisted Reproductive Technology Act 2004

lawyer means a person who holds a current practising certificate as a barrister or as a barrister and solicitor under the Lawyers and Conveyancers Act 2006

Minister means the means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is the person for the time being responsible for the administration of this Act

parentage order means an order of the court made under **section 58** transferring the parentage of a surrogate-born child from the surrogate to the intended parents

parties, in relation to a surrogacy arrangement, means the surrogate and intended parents

personal representative, in relation to a deceased person, means an executor, administrator, or trustee of the estate of the deceased person

provider has the same meaning as in section 5 of the Human Assisted Reproductive Technology Act 2004

review panel has the same meaning as in section 5 of the Human Assisted Reproductive Technology Act 2004

stillborn child means a dead foetus that—

- (a) weighed 400 g or more when born; or
- (b) was born after the 20th week of pregnancy

surrogate has the same meaning as in section 5 of the Human Assisted Reproductive Technology Act 2004

surrogate-born child means a child who is born inside or outside New Zealand as a result of a surrogacy arrangement, and includes—

- (a) a stillborn child; and
- (b) a child who died shortly after birth.

[Definition of "still-born child" and "surrogate-born child" implement OR 24]

Subpart 1—General provisions relating to transfer of parentage

30 Surrogate sole parent of surrogate-born child until parentage transferred, etc

- (1) The surrogate of a surrogate-born child is the sole parent of the child until such time (if any) that—
 - (a) the parentage of the child is transferred under **subpart 2 or 3**; or
 - (b) a declaration of parentage is made in respect of the child under **subpart 4**; or
 - (c) an adoption order is made in respect of the child under which the surrogate ceases to be a parent of the child.
- (2) **Subsection (1)** applies whether or not the surrogate had a partner at any of the following times (not being a partner named in a declaration of parentage):
 - (a) the time of conception of the surrogate-born child;
 - (b) any time during the gestation of the surrogate-born child;
 - (c) the birth of the surrogate-born child.

[Implements: OR 22]

31 Guardians of surrogate-born child until parentage transferred, etc

- (1) The surrogate of a surrogate-born child is the sole guardian of the child until such time (if any) that—
 - (a) the parentage of the child is transferred under **subpart 2 or 3**; or
 - (b) a declaration of parentage is made in respect of the child under **subpart 4**; or
 - (c) an order is made by the court that removes the surrogate as a guardian of the surrogate-born child; or
 - (d) an order is made by the court appointing 1 or more other persons guardians of the surrogate-born child; or
 - (e) an adoption order is made in respect of the child.
- (2) However, if the surrogacy arrangement was approved by the ethics committee or review panel, the intended parents are additional guardians of the child under this section until such time (if any) that—
 - (a) parentage of the child is transferred to them under **section 41**; or
 - (b) an application for a parentage order in respect of the child is determined by the court under **section 58**; or
 - (c) an order is made by the court under **section 33** removing the intended parents as guardians of the surrogate-born child; or
 - (d) an order is made by the court that has the effect of suspending the intended parents as guardians of the surrogate-born child; or
 - (e) an adoption order is made in respect of the child.
- (3) This section overrides sections 17 to 25 of the Care of Children Act 2004.

[Implements: OR 12]

32 Additional guardians of surrogate-born child until parentage transferred, etc

- (1) If, before the parentage of a surrogate-child is transferred, the court appoints 1 or more persons as additional guardians of a surrogate-born child under section 27 of the Care of Children Act 2004, or under section 110, 110AA, or 113A of the Oranga Tamariki Act 1989, the appointment of the additional guardian or guardians ceases to have effect when—
 - (a) the parentage of the child is transferred under **subpart 2 or 3**; or
 - (b) a declaration of parentage is made in respect of the child under **subpart 4**.
- (2) This section does not limit—
 - (a) sections 28 to 29A of the Care of Children Act 2004; or
 - (b) section 127 of the Oranga Tamariki Act 1989; or

(c) section 16(2)(h) of the Adoption Act 1955.

33 Court may remove 1 or both intended parents as guardians of surrogate-born child

- (1) This section applies in respect of intended parents who are additional guardians of a surrogate-born child under **section 31(2)**.
- (2) On an application for the purpose by an eligible person, the court may make an order—
 - (a) removing 1 of the intended parents as an additional guardian of the surrogate-born child; or
 - (b) removing both of the intended parents as additional guardians of the surrogate-born child.
- (3) An order under **subsection (1)** must not be made unless the court is satisfied that the order will serve the welfare and best interests of the surrogate-born child.
- (4) In **subsection (1)**, **eligible person** means any of the following persons:
 - (a) the surrogate;
 - (b) an intended parent;
 - (c) any other person granted leave to apply by the court.

34 How parentage of surrogate-born child transferred

The parentage of a surrogate-born child may only be transferred from the surrogate to the intended parents under this Part by—

- (a) operation of law under **subpart 2**; or
- (b) a parentage order made under **subpart 3**.

[Implements: OR 8]

35 Effect of transfer of parentage

- (1) When the parentage of a surrogate-born child is transferred from the surrogate to the intended parents, the following paragraphs have effect for all purposes (whether civil, criminal, or otherwise)—
 - (a) the child becomes the child of the intended parents; and
 - (b) the child ceases to be the child of the surrogate; and
 - (c) the intended parents become the parents and guardians of the child; and
 - (d) the surrogate ceases to be the parent and a guardian of the child.
- (2) Other familial relationships are determined in accordance with **subsection (1)**.
- (3) This section is subject to—
 - (a) **sections 36 and 37**; and

- (b) the provisions of any other enactment that distinguish between children who were born as a result of a surrogacy arrangement and children who were born other than as a result of a surrogacy arrangement.

[Implements: ORs 9 and 16]

36 Familial relationships that existed prior to transfer of parentage continue for certain purposes

- (1) For the purposes set out in **subsection (2)**, a surrogate-born child is taken to have—
 - (a) the familial relationships that existed before parentage was transferred; and
 - (b) the familial relationships that resulted from the transfer of parentage.
- (2) The purposes referred to in **subsection (1)** are—
 - (a) determining whether persons are within any of the prohibited degrees of civil union set out in clause 1(1) to (7) of Schedule 2 of the Civil Union Act 2004;
 - (b) determining whether persons are within any of the prohibited degrees of marriage set out in clause 1(a) to (g) of Schedule 2 of the Marriage Act 1955;
 - (c) applying a law relating to a sexual offence where a familial relationship is relevant.

37 Effect of transfer of parentage on property rights

- (1) The transfer of parentage does not have effect to deprive a surrogate-born child of any vested or contingent property rights acquired by the child before the transfer of parentage.
- (2) Subject to **subsection (1)**, a transfer of parentage has effect in relation to—
 - (a) a disposition of property, whether by will or otherwise, and whether made before or after the commencement of this section, unless the will or other instrument distinguishes between children who were born as a result of a surrogacy arrangement and children who were born other than as a result of a surrogacy arrangement; and
 - (b) a devolution of property of a person dying intestate.

Compare: Surrogacy Act 2010 s 40 (NSW)

38 Interpretation of references to mother and father

- (1) This section applies if—
 - (a) the parentage of a surrogate-born child is transferred under **subpart 2 or 3**; or
 - (b) a declaration of parentage is made under **subpart 4** in respect of a surrogate-born child; or

- (c) an overseas parentage determination is recognised in New Zealand under **subpart 5** in respect of a surrogate-born child.
- (2) A reference in any enactment, instrument, or other document (whenever passed or made) to the mother or to the father of the surrogate-born child is—
 - (a) in the case of a surrogate-born child who has 1 parent, a reference to that parent:
 - (b) in the case of a surrogate-born child who has 2 parents, a reference to either of those parents.
- (3) A reference in any enactment, instrument, or other document (whenever passed or made) to the mother and the father of the surrogate-born child is—
 - (a) in the case of a surrogate-born child who has 1 parent, a reference to that parent:
 - (b) in the case of a surrogate-born child who has 2 parents, a reference to both of those parents.
- (4) However, **subsections (2) and (3)** do not apply if a contrary intention is expressed or appears in the enactment, instrument, or document.

39 Interpretation of reference to blood relationship

- (1) A reference to any enactment, instrument, or other document (whenever passed or made) to 2 persons having, or being related or connected by, a blood relationship includes a relationship that exists between—
 - (a) a surrogate-born child (**A**); and
 - (b) a person (**B**) who, at the time of determining the existence of the relationship, is a parent of A in accordance with—
 - (i) **section 30**;
 - (ii) **section 41(2)**;
 - (iii) **section 58(2)**;
 - (iv) **section 65**;
 - (v) an overseas parentage determination recognised in New Zealand under **section 66(2)**.
- (2) **Subsection (1)** applies even if there is no genetic link between A and B.
- (3) However, this section does not apply if a contrary intention is expressed or appears in the enactment, instrument, or document.
- (4) Other familial relationships of persons between whom a blood relationship exists under **subsection (1)** are determined in accordance with that relationship.

40 Interpretation of reference to natural child and natural parent

- (1) A reference in any enactment, instrument, or other document (whenever passed or made) to a person being a natural child of another person includes a person

- (A) who is a surrogate-born child and who has a child-parent relationship with another person (B) because, at the time of determining the existence of the relationship, B is the parent of A in accordance with—
- (a) any of the following provisions:
 - (i) **section 30**;
 - (ii) **section 41(2)**;
 - (iii) **section 58(2)**;
 - (iv) **section 65**; or
 - (b) an overseas parentage determination recognised in New Zealand under **section 66(2)**.
- (2) **Subsection (1)** applies even if there is no genetic link between A and B.
- (3) A reference in any enactment, instrument, or other document (whenever passed or made) to a person being a natural parent of another person includes a person (C) who is the parent of a surrogate-born child (D) and who has a parent-child relationship with D because, at the time of determining the existence of the relationship, C is the parent of D in accordance with—
- (a) any of the following provisions:
 - (i) **section 30**;
 - (ii) **section 41(2)**;
 - (iii) **section 58(2)**;
 - (iv) **section 65**; or
 - (b) an overseas parentage determination recognised in New Zealand under **section 66(2)**.
- (4) **Subsections (3)** applies even if there is no genetic link between C and D.
- (5) However, this section does not apply if a contrary intention is expressed or appears in the enactment, instrument, or document.

Subpart 2—Transfer of parentage by operation of law

41 Parentage transferred by operation of law

- (1) This section applies if—
- (a) the surrogacy arrangement entered into between the surrogate and intended parents has been approved by the ethics committee or review panel; and
 - (b) the surrogate-born child is in the care of the intended parents; and
 - (c) the surrogate has made a statutory declaration in accordance with **section 42**.

- (2) If this section applies, parentage of the surrogate-born child is transferred from the surrogate to the intended parents immediately upon the intended parents receiving the surrogate's declaration.

[Implements: OR 10]

42 Statutory declaration of surrogate

- (1) The surrogate who has given birth to a child as a result of a surrogacy arrangement entered into with the intended parents of the child may make a statutory declaration verifying that—
- (a) the surrogacy arrangement was approved by the ethics committee or review panel and the approval has not been cancelled; and
 - (b) the conditions imposed by the ethics committee or review panel on its approval of the surrogacy arrangement (if any) have been satisfied; and
 - (c) the child (unless deceased) is in the care of the intended parents; and
 - (d) an application has not at any time been made for a parentage order in respect of the child or, if an application for a parentage order has at any time been made in respect of the child, it has been withdrawn; and
 - (e) the surrogate consents to relinquish their parentage and guardianship of the child.
- (2) The statutory declaration—
- (a) may not be made earlier than 7 days after the birth of the child; and
 - (b) must be in the form approved by the Registrar-General.
- (3) The declaration must be made before a lawyer who must, at the end of declaration, certify that before the surrogate made the declaration the lawyer explained to the surrogate the effect and implications of the declaration.

[Implements: ORs 11, 13, 14]

43 Surrogate required to provide personal information in certain cases for purposes of registering birth of surrogate-born child

- (1) This section applies if—
- (a) the parentage of a child born as a result of a surrogacy arrangement is to be, or has been, transferred from the surrogate to the intended parents by operation of law under **section 41**; and
 - (b) the surrogacy arrangement did not involve the performance of an assisted reproductive procedure or an established procedure by a provider.
- (2) The surrogate must, at the same time as providing a statutory declaration in accordance with **section 42** or immediately after making that declaration, provide to the intended parents or parent (as the case may be) the information specified in **section 30B** of the Births, Deaths, Marriages, and Relationships

Registration Act 2021 that is required by that section to be provided to the Registrar-General for the purposes of registering the child's birth.

44 Death of 1 intended parent before parentage transferred

- (1) **Subsection (2)** applies if—
- (a) a surrogacy arrangement entered into by 2 intended parents has been approved by the ethics committee or review panel; and
 - (b) 1 intended parent dies before parentage of the surrogate-born child is transferred to the intended parents under **section 41**; and
 - (c) the surrogate-born child is in the care of the surviving intended parent.
- (2) If this subsection applies, parentage of the surrogate-born child may be transferred under this subpart to the surviving intended parent and the deceased intended parent, and—
- (a) the references in **sections 41(1)(b) and 42(1)(c)** to the intended parents must be read as references to the surviving intended parent; and
 - (b) the reference in **section 41(2)** to the intended parents receiving the surrogate's declaration must be read as a reference to the surviving intended parent receiving the surrogate's declaration.

[Implements: OR 25a]

45 Order recording transfer of parentage by operation of law

- (1) The purpose of this section is to provide for a parent-child relationship established by operation of law under this subpart to be recorded in a court order.
- (2) If the parentage of a surrogate-born child is transferred from the surrogate to the intended parents by operation of law under **section 41**, any of the following persons may apply to the court for an order recording the transfer of parentage:
- (a) the surrogate; or
 - (b) 1 or both of the intended parents; or
 - (c) the surrogate-born child.
- (3) On receiving an application under **subsection (1)**, a Family Court Associate or Judge must deal with the application on the papers and make an order in the terms sought if satisfied that the parentage of the surrogate-born child has transferred by operation of law.
- (4) For all purposes, an order made under this section must be treated as if it were a parentage order made under **section 58**.

[Implements: OR 15]

Subpart 3—Transfer of parentage by court order

46 When application for parentage order may be made

- (1) An application for a parentage order may be made in relation to a surrogate-born child if at least 1 of the parties to the surrogacy arrangement—
 - (a) is habitually resident in New Zealand at the time the application is made; or
 - (b) has been granted leave by the court to apply for a parentage order under **section 47**.
- (2) However, an application for a parentage order may not be made in relation to a surrogate-born child if, in relation to the child,—
 - (a) an application for a parentage order has previously been made and that application has been determined or is awaiting determination; or
 - (b) an application for an adoption order has been made before the commencement of this section and that application has been determined or is awaiting determination.

[implements: ORs 16 and 64]

47 Court may grant leave to apply for parentage order

- (1) The court may grant leave to a party to apply for a parentage order in relation to a surrogate-born child if the Judge is satisfied that—
 - (a) the court is the most appropriate forum to determine the parentage of the child; and
 - (b) having the court determine the parentage of the child is in the best interests of the child.
- (2) In considering whether the court is the most appropriate forum to determine the parentage of a child, the Family Court Judge must take into account—
 - (a) the place of the surrogate's habitual residence; and
 - (b) the place of the intended parents' habitual residence; and
 - (c) the place of birth of the child; and
 - (d) whether a similar or related proceeding in respect of the child has been commenced in another jurisdiction; and
 - (e) any other matters the Judge considers relevant.

[Implements: OR 64(b)]

48 Application for parentage order

- (1) An application for a parentage order may be made to the court by—
 - (a) 1 of the intended parents; or
 - (b) both of the intended parents jointly; or

(c) the surrogate.

- (2) If 1 or both of the intended parents have died, or the surrogate has died, an application may be made by the personal representative of the deceased.

[Implements: OR 25b]

49 Information that must be in, or accompany, application for parentage order if surrogacy arrangement not assisted by provider

- (1) This section applies if—
- (a) an application for a parentage order is made in respect of a child born as a result of a surrogacy arrangement that did not involve the performance of an assisted reproductive procedure or an established procedure by a provider; and
 - (b) the child is not deceased.
- (2) The application for a parentage order must contain, or be accompanied by, so much of the prescribed information as is known to the applicant.
- (3) In this section, **prescribed information** means the information prescribed under **subsection (4)** that must be provided by a Registrar of the court to the Registrar-General under **section 30D** of the Births, Deaths, Marriages, and Relationships Registration Act 2021 if a parentage order is made.
- (4) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing information for the purposes of **subsection (2)**, and that information must be, or include, information about—
- (a) the surrogate; and
 - (b) any donor who—
 - (i) donated genetic material that resulted in the surrogate’s pregnancy; and
 - (ii) is not an intended parent.
- (5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

50 Parentage report

- (1) In this section,—
- chief executive** means the chief executive of the department responsible for the administration of the Oranga Tamariki Act 1989
- parentage report** means a social worker’s report on their assessment of matters relating to an application for a parentage order
- social worker** has the same meaning as in section 2(1) of the Oranga Tamariki Act 1989.
- (2) Before an application for a parentage order is determined, a Registrar must, or a Family Court Judge or Family Court Associate must, direct a Registrar to—

- (a) send a copy of the application to the chief executive; and
- (b) request the chief executive to provide to the court, within a specified time, a parentage report in relation to the application that includes—
 - (i) an assessment of any of the matters in **section 57** specified; and
 - (ii) any other specified matters.
- (3) However, a direction need not be made under **subsection (2)** if the surrogate-born child in respect of whom the application is made—
 - (a) is over the age of 18 years; or
 - (b) was born before the commencement of this section.
- (4) On receiving a request from a Registrar of the court made under **subsection (2)(b)**, the chief executive must arrange for a social worker to prepare a parentage report in accordance with the request.
- (5) In addition to providing an assessment of the matters specified in the request, a parentage report may also include an assessment of any other matters that the social worker considers relevant to the application.
- (6) A copy of a parentage report received by a Registrar of the court must be given to—
 - (a) the lawyer for each party to the proceedings or, if a party has no lawyer acting for them, to that party; and
 - (b) any lawyer appointed under **section 53** to represent the surrogate-born child; and
 - (c) any lawyer appointed under **section 55** to assist the court.
- (7) The court may call the social worker who prepared the report as a witness, either on its own initiative or on the application of any party.
- (8) Any party to the proceedings, or any lawyer appointed under **section 53 or 55**, may tender evidence on any matter referred to in the report.

[Implements: ORs 19, 26]

51 Other reports

- (1) Before determining an application for a parentage order, the court may also obtain any 1 or more of the following reports in respect of the surrogate-born child:
 - (a) a cultural report:
 - (b) a medical report:
 - (c) a psychiatric report.
- (2) To obtain a report, the court may—
 - (a) request a person whom the court considers qualified for the purpose to prepare a written report; or

- (b) direct a Registrar of the court to request a person whom the Registrar considers qualified for the purpose to prepare a written report.
- (3) The court may act under **subsection (2)** only if satisfied that—
 - (a) the information that the report will provide is essential in the particular circumstances of the case for the proper disposition of the application; and
 - (b) the report is the best source of the information, having regard to the quality, timeliness, and cost of other sources, including any report provided to the court under **section 50**; and
 - (c) the proceedings will not be unduly delayed by the time taken to prepare the report; and
 - (d) any delay in the proceedings will not have an unacceptable impact on the surrogate-born child.
- (4) If the court is entitled by **subsection (3)** to act under **subsection (2)** and if the court knows the wishes of the parties to the proceedings about the obtaining of a report or can speedily ascertain them, the court must have regard to the parties' wishes before deciding whether to act under **subsection (2)**.
- (5) A copy of any report obtained under this section must be given by a Registrar of the court to—
 - (a) the lawyer for each party to the proceedings or, if a party has no lawyer acting for them, to that party; and
 - (b) any lawyer appointed under **section 53** to represent the surrogate-born child; and
 - (c) any lawyer appointed under **section 55** to assist the court.
- (6) Any party to the proceedings, or any lawyer appointed under **section 53 or 55**, may tender evidence on any matter referred to in a report.
- (7) The court may call the person from whom a report was obtained as a witness, either on its own initiative or on the application of any party to the proceedings.

[Implements: OR 20c]

52 Costs of reports requested under **section 51**

- (1) Fees for reports prepared pursuant to a request under **section 51**, and reasonable expenses incurred,—
 - (a) may be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the court; and
 - (b) are payable by such party or parties to the proceedings as the court orders or, if the court so decides, are payable out of public money appropriated by Parliament for the purpose.

- (2) Any amount of any fees and expenses ordered to be paid by any party under **subsection (1)(b)** must, if paid by the Crown, be a debt due to the Crown by that party and, in default of payment of the amount, payment may be enforced, by order of the District Court or the High Court as the case may require, in the same manner as a judgment of that court.

53 Appointment of lawyer to represent surrogate-born child in proceedings

- (1) The court may appoint, or direct a Registrar of the court to appoint, a lawyer to represent a surrogate-born child who is the subject of an application for a parentage order.
- (2) An appointment may be made only if the court—
- (a) has concerns for the safety or well-being of the surrogate-born child; and
 - (b) considers an appointment necessary.
- (3) When appointing a lawyer to represent a surrogate-born child, the court or Registrar must, so far as is reasonably practicable, appoint a lawyer who is, by reason of their personality, cultural background, training and experience, suitably qualified to represent the child.

[Implements: OR 20a]

54 Lawyer appointed to represent surrogate-born child must explain proceedings to child

A lawyer appointed under **section 53** to represent a surrogate-born child who is the subject of an application for a parentage order must, if it is reasonably practicable to do so having regard to the age and maturity of the child, explain the nature of the proceedings to the child in a manner that the child is most likely to understand.

55 Appointment of lawyer to assist court

In any proceedings under this subpart, a court may—

- (a) appoint a lawyer to assist the court; or
- (b) direct a Registrar of the court to appoint a lawyer to assist the court.

[Implements: OR 20b]

56 Fees and expenses of lawyer appointed under section 53 or 55

- (1) The fees and expenses of a lawyer appointed under **section 53 or 55** must—
- (a) be determined under regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the court; and
 - (b) be paid by such party or parties to the proceedings as the court orders or, if the court so decides, are payable out of public money appropriated by Parliament for the purpose.

- (2) An invoice rendered by a lawyer appointed under **section 53 or 55** for fees and expenses must be given to a Registrar of the court, and the Registrar may decide to adjust the amount of the invoice.
- (3) If the lawyer is dissatisfied with the decision of a Registrar as to the amount of the invoice, the lawyer may, within 14 days after the date of the decision, apply to a Judge of the court to review the decision.
- (4) The Judge may, on an application under **subsection (3)**, make any order varying or confirming the decision that the Judge considers fair and reasonable.

57 Matters court may take into account when deciding whether to make parentage order

- (1) In deciding whether to make a parentage order, the court may take into account the following matters:
 - (a) the intentions of the parties when entering into the surrogacy arrangement in relation to the future parentage of the child:
 - (b) whether the parties consent to the transfer of parentage and any consent given is informed consent freely given:
 - (c) the child's genetic and gestational links to the parties to the surrogacy arrangement:
 - (d) the sibling relationships of the child:
 - (e) any arrangements in place to enable the child to establish and maintain relationships with the surrogate and persons to whom they have genetic links, and with those persons' family groups, whānau, hapū, and iwi:
 - (f) the arrangements in place for preserving the child's genetic and gestational origins and whakapapa and for the child to have access to this information:
 - (g) the value of the child having continuity in their care, development, and upbringing:
 - (h) the likely effect of the parentage order on the child, including psychological and emotional impacts:
 - (i) any harm the child has suffered or is at risk of suffering:
 - (j) if appropriate, having regard to the age and maturity of the child, the child's views on the application:
 - (k) any other matters the court considers relevant.
- (2) **Subsection (3)** applies if—
 - (a) a surrogacy arrangement was entered into outside New Zealand; or
 - (b) a child born as a result of a surrogacy arrangement was conceived outside New Zealand; or
 - (c) a child born as a result of a surrogacy arrangement was born outside New Zealand.

- (3) If this subsection applies, the court may also take into account the following matters when deciding whether to make a parentage order:
- (a) whether the surrogacy arrangement was entered into and carried out in accordance with all applicable laws (if any):
 - (b) the steps (if any) taken by the intended parents in the country of the child's birth (if not New Zealand) to secure parentage of the child:
 - (c) if the child was conceived outside New Zealand using donated genetic material, evidence of the consent of the donor of the genetic material to their donation being used for the purposes of the surrogacy arrangement:
 - (d) if the child was born outside New Zealand, evidence of—
 - (i) the consent of the surrogate to the child leaving the country of the child's birth; and
 - (ii) the consent of the surrogate's partner (if the surrogate has a partner) to the child leaving the country of the child's birth and to the transfer of parentage of the child to the intended parents.
- (4) For the purposes of **subsection (3)(d)(ii)**, a person is a partner of the surrogate if, under the law of the country of the child's birth, the partner is a parent of the child.

[implements: ORs 18 and 38]

58 Parentage order

- (1) The court may, on an application, make a parentage order transferring the parentage of a surrogate-born child from the surrogate to either or both of the intended parents if the court is satisfied that the order promotes the welfare and best interests of the child.
- (2) When a parentage order is made under **subsection (1)** the parentage of the surrogate-born child is transferred in accordance with the parentage order immediately the order is made.

[Implements: OR 18]

59 Court must notify Registrar-General of New Zealand parentage orders

A Registrar of the court must, as soon as is reasonably practicable after a parentage order is made, notify the Registrar-General of the order and provide the information required by—

- (a) **section 30D** of the Births, Deaths, Marriages, and Relationships Registration Act 2021; or
- (b) **section 30E** of the Births, Deaths, Marriages, and Relationships Registration Act 2021.

60 Destruction of information provided under section 49 if no parentage order made

- (1) **Subsection (2)** applies if, on an application made to it, the court declines to make a parentage order.
- (2) If this subsection applies, a Registrar of the court may destroy any information provided by the applicant to the court under **section 49**.

Subpart 4—Declarations of parentage

61 Application for declaration of parentage

- (1) An application to the court for a declaration of parentage declaring that a parent-child relationship exists between a surrogate-born child and the surrogate's partner may be made by either of the following persons if they are habitually resident in New Zealand:
 - (a) the surrogate;
 - (b) the surrogate's partner.
- (2) In **subsection (1) and section 64**, **surrogate's partner** means the person who was the spouse, civil union partner, or de facto partner of the surrogate at any or all of the following times:
 - (a) the time of conception of the surrogate-born child;
 - (b) any time during the gestation of the surrogate-born child;
 - (c) at the time of the birth of the surrogate-born child.

62 When an application may be made

An application for a declaration of parentage in respect of a surrogate-born child may be made only after the court has declined to make a parentage order under **section 58** transferring the parentage of the child.

[Implements: OR 17]

63 Parentage tests

- (1) Sections 54 to 59 of the Family Proceedings Act 1980 (parentage tests in civil proceedings) apply to an application under this subpart with any necessary modifications.
- (2) If parentage tests are carried out for the purpose of proceedings under this subpart the applicant is liable to meet all costs reasonably incurred in connection with the tests.

64 Declaration of parentage

The court may make a declaration of parentage on an application made under **section 61** if the court is satisfied that a parent-child relationship exists between the surrogate-born child and the surrogate's partner (and it does not

matter that the surrogate's partner is not living with the surrogate at the time the application is made or at the time of the declaration).

65 Effect of declaration of parentage

If a declaration of parentage is made declaring that a named person is a parent of a surrogate-born child, then, for all purposes,—

- (a) the named person is a parent and guardian of the child and is deemed to have been a parent and guardian of the child from the child's birth; and
- (b) the child is a child of the named person and is deemed to have been a child of that person from birth.

Subpart 5—Recognition of overseas parentage determinations

66 Overseas parentage determinations

(1) **Subsection (2)** applies if—

- (a) a child was born as a result of a surrogacy arrangement; and
- (b) the child was born in a place outside New Zealand; and
- (c) the parties to the surrogacy arrangement were not habitually resident in New Zealand when they entered into the surrogacy arrangement or when the child was born; and
- (d) a parent-child relationship exists between the intended parents and the child pursuant to an overseas parentage determination; and
- (e) the overseas parentage determination is a final determination and is legally valid in the place in which it was made.

(2) If this subsection applies, the overseas parentage determination is recognised in New Zealand and has the same effect as if it were a transfer of parentage under **subpart 2 or 3**.

(3) The production of a document purporting to be the original or a certified copy of an overseas parentage determination or record of the overseas parentage determination is, in the absence of proof to the contrary, sufficient evidence of the overseas parentage determination and that it is legally valid according to the law of the place outside New Zealand in which the determination was made.

(4) This section has effect in place of any rules of common law about the recognition of overseas parentage determinations.

(5) In this section and **section 67**, **overseas parentage determination** means—

- (a) a parentage order or other judicial determination made in a place outside New Zealand; or
- (b) a parentage declaration declared in a place outside New Zealand; or

- (c) an administrative determination or process in a place outside New Zealand; or
- (d) the operation of law in a place outside New Zealand.

[Implements: OR 40]

67 Secretary to give Registrar-General information relating to surrogate-born children whose parentage has been determined overseas and recognised in New Zealand for purposes of citizenship or New Zealand travel documents

- (1) This section applies if the Secretary has relied on an overseas parentage determination for the purposes of determining—
 - (a) an application for New Zealand citizenship in respect of a surrogate-born child; or
 - (b) an application for a New Zealand travel document in respect of a surrogate-born child.
- (2) If this section applies, the Secretary must provide to the Registrar-General the following information that the Secretary holds in relation to the child who is the subject of the overseas parentage determination:
 - (a) the name of the child; and
 - (b) the name of each parent of the child; and
 - (c) any of the details specified in **subsection (3)** about the surrogate held by the Secretary; and
 - (d) any of the details specified in **subsection (4)** about each donor held by the Secretary.
- (3) The details about the surrogate referred to in **subsection (2)(c)** are—
 - (a) the surrogate's name; and
 - (b) the surrogate's contact details, including address; and
 - (c) the date, place, and country of the surrogate's birth; and
 - (d) the surrogate's citizenship and residency status; and
 - (e) the surrogate's ethnicity and any other relevant cultural affiliation; and
 - (f) in the case of a Māori surrogate, the surrogate's hapū and iwi, to the extent that the surrogate is aware of those affiliations; and
 - (g) the surrogate's reasons for being a surrogate; and
 - (h) in any case where the surrogate's ovum is used in conception,—
 - (i) the surrogate's height; and
 - (ii) the colour of the surrogate's eyes and hair; and
 - (iii) any aspects, considered significant by the provider, of the medical history of—

- (A) the surrogate; and
 - (B) the surrogate’s parents and grandparents; and
 - (C) the surrogate’s children (if any); and
 - (D) the surrogate’s siblings (if any).
- (4) The details about each donor referred to in **subsection (2)(d)** are—
- (a) the donor’s name; and
 - (b) the donor’s contact details, including address; and
 - (c) the date, place, and country of the donor’s birth; and
 - (d) the donor’s height; and
 - (e) the colour of the donor’s eyes and hair; and
 - (f) the type of donation made by the donor; and
 - (g) the donor’s ethnicity and any other relevant cultural affiliation; and
 - (h) in the case of a Māori donor, the donor’s whānau, hapū, and iwi, to the extent that the donor is aware of those affiliations; and
 - (i) any aspects, considered significant by the provider, of the medical history of—
 - (i) the donor; and
 - (ii) the donor’s parents and grandparents; and
 - (iii) the donor’s children (if any); and
 - (iv) the donor’s siblings (if any).

- (5) In this section,—

donor, in relation to a surrogate-born child, means a person who donated genetic material that resulted in the surrogate’s pregnancy but who is not a parent of the child

New Zealand travel document has the same meaning as in section 2 of the Passports Act 1992

Secretary means the Secretary of Internal Affairs.

Subpart 6—Other provisions

68 Rules of court

Rules may be made under section 16A of the Family Court Act 1980 relating to the practice and procedure of the court in proceedings under this Part.

69 Consequential amendments

Amend the legislation specified in **Schedule 3** as set out in that schedule.

19J New Schedule 1 inserted

Insert the **Schedule 1** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

19K Schedule amended

Replace the Schedule heading with:

Schedule 2
Consequential amendments arising from Part 1 as enacted

19L New Schedule 3 inserted

After **Schedule 2**, insert the **Schedule 3** set out in **Schedule 2** of this Act.

Part 3A
Amendments to Citizenship Act 1977

19M Principal Act

This Part amends the Citizenship Act 1977.

19N Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

child refers to the status of a person in a relationship of a parent and child, and includes a person of that status even after the person has reached the age of 18 years

surrogacy arrangement has the meaning given to it by section 5 of the Human Assisted Reproductive Technology Act 2004

surrogate has the meaning given to it by section 5 of the Human Assisted Reproductive Technology Act 2004

surrogate-born child has the meaning given to it by section 5 of the Human Assisted Reproductive Technology Act 2004

19O Section 3 amended (Special provisions relating to parentage)

In section 3(1), replace “another person” with “another person (not being a person who is a surrogate-born child)”.

19P New section 3A inserted (Special provisions relating to parentage of surrogate-born children)

After section 3, insert:

3A Special provisions relating to parentage of surrogate-born children

(1) This section applies to a person who is—

(a) a New Zealand citizen; or

- (b) entitled in terms of the Immigration Act 2009 to be in New Zealand indefinitely, or entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau.
- (2) For the purposes of this Act, a person to whom this section applies is treated as a parent of a surrogate-born child if—
- (a) the parentage of the surrogate-born child has been transferred to the person by—
- (i) operation of law under **subpart 2 of Part 3** of the Status of Children Act 1969; or
 - (ii) a parentage order made under **subpart 3 of Part 3** of the Status of Children Act 1969; or
 - (iii) an overseas parentage determination recognised in New Zealand under **subpart 5 of Part 3** of the Status of Children Act 1969; or
- (b) a declaration of parentage has been made under **subpart 4 of Part 3** of the Status of Children Act 1969 declaring the person a parent of the surrogate-born child.
- (3) If for the purposes of this Act a person is, under **subsection (2)**, treated as a parent of a surrogate-born child,—
- (a) the terms mother and father used in this Act are to be read with reference to the person accordingly; and
- (b) the surrogate-born child is to be treated as having been born at the place, and on the date, as follows:
- (i) if **subsection (2)(a)(i)** applies, the child is to be treated as having been born in New Zealand on the date the parentage of the child was transferred:
 - (ii) if **subsection (2)(a)(ii)** applies, the child is to be treated as having been born in New Zealand on the date the parentage order was made:
 - (iii) if **subsection (2)(a)(iii)** applies, the child is to be treated as having been born at the place and on the date the determination was made:
 - (iv) if **subsection (2)(b)** applies, the child is to be treated as having been born in New Zealand on date the declaration was made.

19Q Section 6 amended (Citizenship by birth)

After section 6(6), insert:

- (7) A person who is a New Zealand citizen by birth does not lose their New Zealand citizenship by reason of the person's parentage being transferred (under **Part 3** of the Status of Children Act 1969) to a parent or parents who are neither—

- (a) New Zealand citizens; nor
 - (b) entitled in terms of the Immigration Act 2009 to be in New Zealand indefinitely, or entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau.
- (8) If a person was born as a the result of a surrogacy arrangement, references in this section to a person’s parents, mother, or father at the time of their birth are to be read in each case as references to the surrogate who gave birth to the person.

[Implements: OR 59]

19R Section 7 amended (Citizenship by descent)

After section 7(4), insert:

- (5) A person who is a New Zealand citizen by virtue of subsection (1)(a) does not lose their New Zealand citizenship by reason of the person’s parentage being transferred (under **Part 3** of the Status of Children Act 1969) to a parent or parents who are not New Zealand citizens otherwise than by descent.
- (6) If a person was born as a the result of a surrogacy arrangement, references in this section to a person’s parents, mother, or father at the time of their birth are to be read in each case as references to the surrogate who gave birth to the person.

Part 5

Amendments to Births, Deaths, Marriages, and Relationships Registration Act 2021

[Implements: OR 55]

25A Principal Act

This Part amends the Births, Deaths, Marriages, and Relationships Registration Act 2021.

25B Section 3 amended (Purpose of this Act)

- (1) In section 3(a), after “relating to births,”, insert “transfers of parentage of surrogate-born children,”.
- (2) In section 3(a)(ii), after “record of births,”, insert “transfers of parentage of surrogate-born children,”.

25C Section 4 amended (Interpretation)

- (1) In section 4, insert in their appropriate alphabetical order:

AHR procedure has the meaning set out in section 15 of the Status of Children Act 1969

established procedure has the meaning set out in section 5 of the Human Assisted Reproductive Technology Act 2004

restricted surrogacy information means the identity information registered under **section 30F** or recorded under **section 30G** alongside the birth record of a surrogate-born child

surrogacy arrangement has the meaning set out in section 5 of the Human Assisted Reproductive Technology Act 2004

surrogate has the meaning set out in section 5 of the Human Assisted Reproductive Technology Act 2004

surrogate-born child has the meaning set out in section 5 of the Human Assisted Reproductive Technology Act 2004

(2) In section 4, definition of **birth information**,—

- (a) in paragraph (b)(iii), after “person”, insert “; but”; and
- (b) after paragraph (b)(iii), insert:
- (c) excludes restricted surrogacy information

(3) In section 4, replace the definition of **registrable event** with:

registrable event means any of the following:

- (a) a birth:
- (b) an adoption:
- (c) a transfer of parentage under **subpart 2 or 3 of Part 3** of the Status of Children Act 1969:
- (d) the Registrar-General receiving information under **section 67** of the Status of Children Act 1969 in relation to a child who is the subject of an overseas parentage determination (as that term is defined in **section 66(5)** of that Act):
- (e) a marriage:
- (f) a civil union:
- (g) a name change:
- (h) a death

(4) In section 4, definition of **restricted information**, after paragraph (c), insert:

- (d) restricted surrogacy information

25D Section 12 amended (Parents must notify birth in New Zealand)

Replace section 12(4) with:

- (4) For the purposes of this section, a child has **1 parent at law** if—
 - (a) the child is born as a result of an AHR procedure and—
 - (i) the child is born to a woman acting alone in a situation described in section 20(1) or 22(1) of the Status of Children Act 1969; and

- (ii) the donor of the ovum, embryo, or semen (as the case may be) for the woman's pregnancy does not become the partner of the woman after the time of conception but before the birth is notified for registration; or
- (b) the child is a surrogate-born child and, under **section 30** of the Status of Children Act 1969, the surrogate of the child is the child's sole parent.

25E New section 12A inserted (Persons to whom parentage of surrogate-born child transferred must notify birth of child)

After section 12, insert:

12A Persons to whom parentage of surrogate-born child transferred must notify birth of child

- (1) The persons to whom parentage of a surrogate-born child is transferred under **subpart 2 or 3 of Part 3** of the Status of Children Act 1969 must, as soon as is reasonably practicable after becoming the parents of the child, notify the Registrar-General under section 12 of the birth of the child.
- (2) If the parentage of a surrogate-born child is transferred under **subpart 2 or 3 of Part 3** of the Status of Children Act 1969 to only 1 person, that person must, as soon as is reasonably practicable after becoming a parent of the child, notify the Registrar-General under section 12 of the birth of the child as if the child has 1 parent at law for the purposes of that section.
- (3) **Subsections (1) and (2)** apply even if the birth of the child has previously been notified to the Registrar-General under section 12(2)(a)(i) by the surrogate of the child.

25F New section 16A inserted (Registration of birth of surrogate-born child)

After section 16, insert:

16A Registration of birth of surrogate-born child

- (1) On receipt of a notification of birth under section 12 given by parents of a surrogate-born child in accordance with **section 12A**, the Registrar-General must register the birth of the child.
- (2) If the birth of the child has already been registered by the Registrar-General following receipt of a notification given under section 12(2)(a)(i) by the surrogate of the child, that earlier registration is superseded by the registration of the birth under **subsection (1)** and must be deleted by the Registrar-General.

25G Section 17 amended (When Registrar-General may register birth that occurs outside New Zealand)

After section 17(1)(a), insert:

- (aa) if the parentage of a child has been transferred under **subpart 2 of Part 3** of the Status of Children Act 1969 and the parents of the child

have provided to the Registrar-General the information required under **section 30B(2) or 30C(2)**; or

- (ab) if a parentage order has been made in respect of the child under **subpart 3 of Part 3** of the Status of Children Act 1969 and a copy of that order has been provided to the Registrar-General under **section 30D(2) or 30E(2)**; or

25H Section 20 amended (Birth record must include parents' details)

After section 20(2)(b), insert:

- (ba) the information relates to a person in respect of whom the Family Court has, under **subpart 4 of Part 3** of the Status of Children Act 1969, made a declaration of parentage declaring that a parent-child relationship exists between the person and the child; or

25I Section 30 amended (Appeals against Registrar-General's decisions)

- (1) Before section 30(1)(a), insert:

(aaa) **section 17(1)(aa)** (relating to the registration of a birth of a child outside New Zealand in respect of whom parentage has been transferred under **subpart 2 of Part 3** of the Status of Children Act 1969):

(aab) **section 17(1)(ab)** (relating to the registration of a birth of a child outside New Zealand in respect of whom a parentage order under **subpart 3 of Part 3** of the Status of Children Act 1969 has been made):

- (2) In section 30(1)(b), replace “section 20(2)(a) or (c)” with “section 20(2)(a), **(ba)**, or (c)”.

- (3) After section 30(1)(d), insert:

(e) **section 106A** (relating to access to restricted surrogacy information).

25J New subpart 2A of Part 2 inserted

After section 30, insert:

Subpart 2A—Surrogate-born children

30A Interpretation

In this subpart,—

non-provider-assisted surrogacy arrangement means a surrogacy arrangement that does not involve the performance of an AHR procedure, or an established procedure, by a provider

provider has the meaning set out in section 5 of the Human Assisted Reproductive Technology Act 2004

provider-assisted surrogacy arrangement means a surrogacy arrangement that involves the performance of an AHR procedure, or an established procedure, by a provider.

*Notification of change of parentage***30B Parentage transferred by operation of law in non-provider-assisted surrogacy arrangement**

- (1) This section applies if—
 - (a) the parentage of a child born as a result of a surrogacy arrangement has been transferred by operation of law under **subpart 2 of Part 3** of the Status of Children Act 1969; and
 - (b) the surrogacy arrangement was a non-provider-assisted surrogacy arrangement.
- (2) If this section applies, the parents of the child must, at the same time as notifying the birth of the child under section 12, provide to the Registrar-General—
 - (a) a copy of the surrogate's statutory declaration made in accordance with **section 42** of the Status of Children Act 1969; and
 - (b) a statement of the date on which parentage of the child was transferred from the surrogate to them in accordance with **section 41(2)** of the Status of Children Act 1969; and
 - (c) unless the child is deceased,—
 - (i) the details specified in **subsection (3)** about the surrogate; and
 - (ii) the details specified in **subsection (4)** about each donor who donated genetic material that resulted in the surrogate's pregnancy but who is not a parent of the child.
- (3) The details about the surrogate referred to in **subsection (2)(c)(i)** are—
 - (a) the surrogate's name; and
 - (b) the surrogate's contact details, including their address; and
 - (c) the date, place, and country of the surrogate's birth; and
 - (d) the surrogate's citizenship and residency status; and
 - (e) the surrogate's ethnicity and any other relevant cultural affiliation; and
 - (f) in the case of a Māori surrogate, the surrogate's hapū and iwi, to the extent that the surrogate is aware of those affiliations; and
 - (g) the surrogate's reasons for being a surrogate; and
 - (h) the surrogate's height; and
 - (i) the colour of the surrogate's eyes and hair; and
 - (j) any aspects, considered significant by the provider, of the medical history of—
 - (i) the surrogate; and
 - (ii) the surrogate's parents and grandparents; and
 - (iii) the surrogate's children (if any); and

- (iv) the surrogate's siblings (if any).
- (4) The details about each donor referred to in **subsection (2)(c)(ii)** are—
- (a) the donor's name; and
 - (b) the donor's contact details, including their address; and
 - (c) the date, place, and country of the donor's birth; and
 - (d) the donor's height; and
 - (e) the colour of the donor's eyes and hair; and
 - (f) the type of donation made by the donor; and
 - (g) the donor's ethnicity and any other relevant cultural affiliation; and
 - (h) in the case of a Māori donor, the donor's whānau, hapū, and iwi, to the extent that the donor is aware of those affiliations; and
 - (i) any aspects, considered significant by the provider, of the medical history of—
 - (i) the donor; and
 - (ii) the donor's parents and grandparents; and
 - (iii) the donor's children (if any); and
 - (iv) the donor's siblings (if any).

30C Parentage transferred by operation of law in provider-assisted surrogacy arrangement

- (1) This section applies if—
- (a) the parentage of a child born as a result of a surrogacy arrangement has been transferred by operation of law under **subpart 2 of Part 3** of the Status of Children Act 1969; and
 - (b) the surrogacy arrangement was a provider-assisted surrogacy arrangement.
- (2) If this section applies, the parents of the child must, at the same time as notifying the birth of the child under section 12, provide to the Registrar-General—
- (a) a copy of the surrogate's statutory declaration made in accordance with **section 42** of the Status of Children Act 1969; and
 - (b) a statement of the date on which parentage of the child was transferred from the surrogate to them in accordance with **section 41(2)** of the Status of Children Act 1969.

30D Parentage transferred by parentage order in non-provider-assisted surrogacy arrangement

- (1) This section applies if—

- (a) the parentage of a child born as a result of a surrogacy arrangement has been transferred by a parentage order made under **subpart 3 of Part 3** of the Status of Children Act 1969; and
 - (b) the surrogacy arrangement was a non-provider-assisted surrogacy arrangement.
- (2) If this section applies, a Registrar of the court must, as soon as is reasonably practicable after the parentage order is made, provide to the Registrar-General—
- (a) a statement of the names of—
 - (i) the surrogate-born child; and
 - (ii) the surrogate; and
 - (iii) the person or persons to whom the parentage of the child has been transferred under the parentage order; and
 - (b) a statement of the date on which the parentage order was made; and
 - (c) a copy of the parentage order; and
 - (d) the information provided to the court by the applicant for the parentage order under **section 49** of the Status of Children Act 1969 (if the child is not deceased).

[Implements: OR 21]

30E Parentage transferred by parentage order in provider-assisted surrogacy arrangement

- (1) This section applies if—
- (a) the parentage of a child born as a result of a surrogacy arrangement has been transferred by a parentage order made under **subpart 3 of Part 3** of the Status of Children Act 1969; and
 - (b) the surrogacy arrangement was a provider-assisted surrogacy arrangement.
- (2) If this section applies, a Registrar of the court must, as soon as is reasonably practicable after the parentage order is made, provide to the Registrar-General—
- (a) a statement of the names of—
 - (i) the surrogate-born child; and
 - (ii) the surrogate; and
 - (iii) the person or persons to whom the parentage of the child has been transferred under the parentage order; and
 - (b) a statement of the date on which the parentage order was made; and
 - (c) a copy of the parentage order.

[Implements: OR 21]*Registration of information relating to identity of surrogate-born children***30F Registrar-General to register identity information relating to surrogate-born children**

- (1) The Registrar-General must register alongside the birth record of a surrogate-born child the identity information received in respect of the child under the following provisions:
 - (a) **section 30B(2)(b) and (c):**
 - (b) **section 30C(2)(b):**
 - (c) **section 30D(2)(a), (b), and (d):**
 - (d) **section 30E(2)(a) and (b):**
 - (e) **section 66G(1)(b) and (c)** of the Human Assisted Reproductive Technology Act 2004.
- (2) The information registered under **subsection (1)** does not form part of the child's birth record.

[Implements: ORs 21, 29b, 30]*Recording information relating to overseas surrogate-born children whose transfer of parentage is recognised in New Zealand for certain purposes***30G Registrar-General to record information relating to surrogate-born children whose parentage has been determined overseas and recognised in New Zealand for purposes of citizenship or travel documents**

The Registrar-General must record in the register all information received from the Secretary of Internal Affairs under **section 67(2)** of the Status of Children Act 1969.

*Updating identity information relating to surrogate-born children***30H Registrar-General to accept updated information**

- (1) The Registrar-General must accept, on a form provided by the Registrar-General for the purpose, information—
 - (a) from a surrogate, or the surrogate's personal representative, that updates the surrogate's identity information—
 - (i) registered under **section 30F**; or
 - (ii) recorded under **section 30G**:
 - (b) from a donor, or the donor's personal representative, that updates the donor's identity information—
 - (i) registered under **section 30F**; or

(ii) recorded under **section 30G**.

- (2) The Registrar-General must register or record all information accepted under **subsection (1)** to update the identity information relating to the surrogate or donor (as the case may be) held in the registry.

30I Registrar-General not responsible for accuracy of information

The Registrar-General is not responsible for the accuracy of the information—

- (a) registered under **section 30F or 30H(2)**; or
 (b) recorded under **section 30G or 30H(2)**.

25K Section 88 amended (Person must confirm identity to access information under this subpart)

After section 88(1)(b), insert:

- (c) request access to information under **section 106A**.

25L Section 91 amended (Any person may request access to information in relation to named person)

After section 91(3), insert:

- (4) No request may be made under this section in respect of restricted surrogacy information.

25M New section 92A inserted (Registrar-General to notify certain persons of existence of restricted surrogacy information when providing information from birth records)

After section 92, insert:

92A Registrar-General to notify certain persons of existence of restricted surrogacy information when providing information from birth records

- (1) This section applies if—
- (a) under section 92, the Registrar-General provides to a person a copy of information from the person's birth record; and
- (b) in relation to the person there is registered or recorded in the register restricted surrogacy information.
- (2) At the same time as providing to the person a copy of information from the person's birth record the Registrar-General must notify the person—
- (a) there is registered or recorded in the register restricted surrogacy information in relation to the person; and
- (b) how the person may access that information if they wish.

25N Section 97 amended (Certain public sector agencies may request searches in public interest or named person's interest)

Replace section 97(4) with:

- (4) The Registrar-General may provide access to information under subsection (3) even if the information—
 - (a) is subject to a non-disclosure direction; or
 - (b) is restricted surrogacy information.

25O Section 98 amended (Registrar-General must keep access register)

- (1) In section 98(3), replace “Subsection (2)(a)” with “Subsection (2)”.
- (2) After section 98(3)(b), insert:
 - (c) a request for access that relates to restricted surrogacy information.

25P New section 106A inserted (Access to restricted surrogacy information)

After section 106, insert:

106A Access to restricted surrogacy information

- (1) The Registrar-General may provide a surrogate-born child with access to restricted surrogacy information relating to the surrogate-born child.
- (2) The Registrar-General may provide a surrogate with access to restricted surrogacy information about the surrogate.
- (3) The Registrar-General may provide a donor with access to restricted surrogacy information about the donor.
- (4) The Registrar-General may provide any other person with access to restricted surrogacy information only if satisfied that the person is—
 - (a) a personal representative of the surrogate-born child; or
 - (b) a celebrant who wishes to access the information for the purpose of investigating prohibited degrees of relationship under the Marriage Act 1955 or the Civil Union Act 2004; or
 - (c) a person specified in section 95(a), (c), (d), or (e) for the purpose stated in that section in relation to the person; or
 - (d) a person specified in section 96 for the purpose stated in that section in relation to the person; or
 - (e) a department or an organisation specified in section 97 for a purpose stated in section 97(1); or
 - (f) a medical practitioner who produces a certificate signed by 2 medical practitioners that states that access to the information is relevant for the purposes of providing medical treatment or medical advice to a person.
- (5) The Registrar-General may refuse to provide a person access to restricted surrogacy information under any of **subsections (1) to (4)** if the Registrar-

General is satisfied, on reasonable grounds, that the provision of the information is likely to endanger any person.

- (6) When providing restricted surrogacy information to a surrogate-born child under **subsection (1)**, the Registrar-General must advise the person that counselling may be desirable.

[Implements: ORs 31, 33]

25Q Section 109 amended (Registrar-General may provide access to restricted information on court order)

After section 109(b)(iii), insert:

- (iv) the parentage of a surrogate-born child (if the order relates to the transfer of parentage of the child); or

25R Section 126 amended (Registrar-General may delegate functions, duties, and powers to Registrars)

In section 126(3)(e), after “106,”, insert “**106A**.”

25S Section 132 amended (Birth record of child conceived through assisted human reproduction procedure must specify parents as determined under Status of Children Act 1969)

Repeal section 132(3).

25T Consequential amendments

Amend the legislation specified in **Schedule 3** as set out in that schedule.

Part 5A

Amendments to Income Tax Act 2007

25U Principal Act

This Part amends the Income Tax Act 2007.

25V New section CW 63A inserted (Surrogate costs)

After section CW 63, insert:

CW 63A Surrogate costs

Exempt income

- (1) Subject to **subsection (2)**, payments made to a surrogate for the surrogate’s reasonable surrogacy costs (within the meaning of **section 23D** of the Human Assisted Reproductive Technology Act 2004) are exempt income.

Exclusion

- (2) **Subsection (1)** does not apply to a payment made to a surrogate for lost or diminished income (including any employer’s superannuation contribution).

Defined in this Act: employer’s superannuation contribution, exempt income, income, pay

[Implements: OR 36]

25W Section MB 13 amended (Family scheme income from other payments)

- (1) After section MB 13(2)(r), insert:

(s) a payment made to a surrogate for the surrogate’s reasonable surrogacy costs (within the meaning of **section 23D** of the Human Assisted Reproductive Technology Act 2004) that is not a payment for lost or diminished income (including any employer’s superannuation contribution).

- (2) In section MB 13, in the list of defined terms, insert “employer’s superannuation contribution” and “pay”.

[Implements: OR 58]

[Implements: OR 56]

[Implements: OR 57]

Part 8 Amendment to other Acts

Subpart 1—Amendment to Adoption Act 1955

33 Principal Act

This subpart amends the Adoption Act 1955.

34 New section 4A inserted (Further restrictions for adoption orders in respect of children born as a result of surrogacy arrangement)

After section 4, insert:

4A Further restrictions for adoption orders in respect of children born as a result of surrogacy arrangement

- (1) This section applies in respect of a child born as a result of a surrogacy arrangement whose parentage has not been transferred from the surrogate to any other person under **subpart 2 or 3 of Part 3** of the Status of Children Act 1969.

-
- (2) An adoption order may not be made in respect of the child on the application of a person who is a party to the surrogacy arrangement unless the court is satisfied that—
- (a) the parentage of the child is not able to be transferred to the person under **subpart 2 of Part 3** of the Status of Children Act 1969; and
 - (b) an application made by a party to the surrogacy arrangement under **subpart 3 of Part 3** of the Status of Children Act 1969 for a parentage order has been declined.
- (3) An adoption order may not be made in respect of the child on the application of any other person unless the court is satisfied that—
- (a) no party to the surrogacy arrangement is intending to seek a transfer of parentage of the child under **subpart 2 or 3 of Part 3** of the Status of Children Act 1969; or
 - (b) an application made by a party to the surrogacy arrangement under **subpart 3 of Part 3** of the Status of Children Act 1969 for a parentage order has been declined.
- (4) In this section, **surrogacy arrangement** has the same meaning as in section 5 of the Human Assisted Reproductive Technology Act 2004.

Schedule 1
New Schedule 1 inserted in Status of Children Act 1969

s 19J

Schedule 1
Transitional, savings, and related provisions

s 2AA

Part 1
Provisions relating to Improving Arrangements for Surrogacy Act 2021

1 Interpretation

In this Part,—

Act means the Improving Arrangements for Surrogacy Act **2021**

commencement date means the date on which **Part 3** of the Act comes into force.

2 Parentage of surrogate-born child born before commencement date

(1) This clause applies if—

- (a) a surrogate-born child was born before the commencement date; and
- (b) no adoption order has been made in respect of the child.

(2) Parentage of the surrogate-born child may be determined by—

- (a) a parentage order made under **section 58**; or
- (b) an adoption order made under the Adoption Act 1955 as in force immediately before the commencement date.

(3) Parentage of the surrogate-born child may not be transferred by operation of law under **subpart 2 of Part 3**.

3 Parentage of surrogate-born child born on or after commencement date

(1) This clause applies if a surrogate-born child was born on or after the commencement date.

(2) Parentage of the surrogate-born child may only be determined by—

- (a) a transfer of parentage by operation of law under **subpart 2 of Part 3**; or
- or
- (b) a parentage order made under **subpart 3 of Part 3**; or
- (c) a declaration of parentage made under **subpart 4 of Part 3**; or

- (d) an adoption order made under the Adoption Act 1955 (but *see* restrictions applying to surrogate-born children in **section 4A** of that Act).

4 **Declarations of parentage**

An application for a declaration of parentage may be made under **subpart 4 of Part 3** in respect of a child born as a result of a surrogacy arrangement before, on, or after the commencement date.

5 **Recognition of overseas parentage determinations**

Section 66 applies in respect of a child born as a result of a surrogacy arrangement before, on, or after the commencement date.

[Implements: ORs 26 and 27]

Schedule 2
New Schedule 3 inserted in Status of Children Act 1969

s 19L

Schedule 3
Consequential amendments to enactments arising from Part 3

s 69

Part 1
Amendments to Acts

Care of Children Act 2004 (2004 No 90)

Replace section 27(1)(b) with:

- (b) on its own initiative, on making an order removing a guardian under—
 - (i) section 29; or
 - (ii) **section 33** of the Status of Children Act 1969.

After section 28(1)(e), insert:

- (f) the guardian ceases, under **section 32(1)** of the Status of Children Act 1986, to be a guardian:
- (g) the guardian is removed by an order under **section 33** of the Status of Children Act 1969.

Children’s Act 2014 (2014 No 40)

In Schedule 1, item (4), after “Care of Children Act 2004,”, insert “the Status of Children Act 1969,”.

In Schedule 1, after item (4), insert:

- (4A) services provided by a social worker under **section 23H** of the Human Assisted Reproductive Technologies Act 2004:

Crimes Act 1961 (1961 No 43)

In section 131A(2), definition of **guardian**, paragraph (a), replace “or the Oranga Tamariki Act 1989” with “, the Oranga Tamariki Act 1989, or **Part 3** of the Status of Children Act 1969”.

Electronic Identity Verification Act 2012 (2012 No 123)

After section 30(1)(a), insert:

- (aa) an individual’s core identity information has changed as a result of a change in the individual’s parentage under **Part 3** of the Status of Children Act 1969; or

Electronic Identity Verification Act 2012 (2012 No 123)—continued

Before section 32(1)(a), insert:

- (aaa) the core identity information of the individual to whom it has been issued has changed as a result of a change in the individual's parentage under **Part 3** of the Status of Children Act 1969; or

Family Court Act 1980 (1980 No 161)

After section 11(1)(b), insert:

- (ba) the Status of Children Act 1969:

After section 12A(2)(j), insert:

- (k) the Status of Children Act 1969.

After section 16A(4)(m), insert:

- (n) the Status of Children Act 1969.

In Schedule 2, after clause 1(a)(iii), insert:

- (iv) **section 53** of the Status of Children Act 1969:

In Schedule 2, after clause 1(g)(vii), insert:

- (viii) **section 55(a)** of the Status of Children Act 1969:

In Schedule 2, after clause 1(h)(vi), insert:

- (vii) **section 55(b)** of the Status of Children Act 1969:

In Schedule 2, after clause 1(i)(viii), insert:

- (ix) **section 56(3) and (4)** of the Status of Children Act 1969:

In Schedule 2, after clause 1(k)(iv), insert:

- (v) a cultural, medical, or psychiatric report under **section 51** of the Status of Children Act 1969:

In Schedule 2, replace clause 2(j) with:

- (j) sections 10(2) and (3) (in respect of undefended applications), **45(3)**, and **51(2)** of the Status of Children Act 1969

Family Proceedings Act 1980 (1980 No 94)

After section 47(2), insert:

- (3) No application for a paternity order may be made under this section in respect of a child born as a result of a surrogacy arrangement (as that term is defined in section 5 of the Human Assisted Reproductive Technology Act 2004).

Sale and Supply of Alcohol Act 2012 (2012 No 120)

Replace section 246 with:

Sale and Supply of Alcohol Act 2012 (2012 No 120)—*continued***246 Who is guardian**

For the purposes of this Act, a person is a minor's guardian only if he or she is guardian by virtue of—

- (a) the Care of Children Act 2004; or
- (b) **Part 3** of the Status of Children Act 1969.

[To be completed]

Part 2**Amendments to secondary legislation**

[To be completed]

Schedule 3
Consequential amendments to enactments arising from Part 5

s 255

Part 1
Amendments to Acts

Identity Information Confirmation Act 2012 (2012 No 124)

In section 21(2), after “106,”, insert “**106A**,”.

[To be completed]

Part 2
Amendments to secondary legislation

[To be completed]