

NIUE LAWS
LEGISLATION AS AT DECEMBER 2006

ADOPTION ACT 1955

1955/93 – 27 October 1955

1 This is the Adoption Act 1955.

2-15 –

16 Effect of adoption order

(1) Every adoption order shall confer the surname of the adoptive parent on the adopted child, with such first or Christian name as the Court, on the application of the person who is applying for the adoption order, may fix.

(2) Upon an adoption order being made, the following shall have effect for all purposes, whether civil, criminal, or otherwise, but subject to the provisions of any enactment which distinguishes in any way between adopted children and children other than adopted children, namely –

(a) The adopted child shall be deemed to be the child of the adoptive parent, and the adoptive parent shall be deemed to be the parent of the child, as if the child had been born to that parent in lawful wedlock: Provided that, where the adopted child is adopted by his mother either alone or jointly with her husband, the making of the adoption order shall not prevent the making of an affiliation order or maintenance order, or of an application for an affiliation order or maintenance order, in respect of the child;

(b) The adopted child shall be deemed to cease to be the child of his existing parents (whether his natural parents or his adoptive parents under any previous adoption), and the existing parents of the adopted child shall be deemed to cease to be his parents, and any existing adoption order in respect of the child shall be deemed to be discharged under section 20:

Provided that, where the existing parents are the natural parents, this paragraph shall not apply for the purposes of any enactment relating to forbidden marriages or to the crime of incest;

(c) The relationship to one another of all persons (whether the adopted child, the adoptive parent, the existing parents, or any other persons) shall be determined under this subsection so far as they are applicable;

(d) The foregoing provisions shall not apply for the purposes of any deed, instrument, will, or intestacy, or affect any vested or contingent right of the adopted child or any other person under any deed, instrument, will, or intestacy, where the adoption order is made after the date of the deed or instrument or after the date of the death of the testator or intestate, as the case

may be, unless in the case of a deed, instrument, or will, express provision is made to that effect;

(e) The adoption order shall not affect the race, nationality, or citizenship of the adopted child;

(f) The adopted child shall acquire the domicile of his adoptive parent or adoptive parents, and the child's domicile shall thereafter be determined as if the child had been born in lawful wedlock to the said parent or parents: Provided that nothing in this paragraph shall affect the domicile of origin of the child;

(g) In any case where the adoption order was made before the adopted child attained the age of 3 years, the child's domicile of origin shall be deemed to be the domicile which he first acquired under paragraph (f) upon the making of the adoption order, but nothing in this Act shall affect the domicile of origin of an adopted child in any other case;

(h) Any existing appointment as guardian of the adopted child shall cease to have effect;

(i) Any affiliation order or maintenance order in respect of the adopted child and any agreement (not being in the nature of a trust) which provides for payments for the maintenance of the adopted child shall cease to have effect:

Provided that, where the adopted child is adopted by his mother either alone or jointly with her husband, the order or agreement shall not cease to have effect by reason of the making of the adoption order:

Provided also that nothing shall prevent the recovery of any arrears which are due under any order or agreement at the date on which it ceases to have effect.

17-19 –

20 Adoption order discharged

Upon an adoption order being discharged –

(a) The relationship to one another of all persons (whether the adopted child, the adoptive parents, the natural parents, the guardians of the child at the date of the adoption order or adoption, or any other persons) shall be determined as if the adoption order or adoption had not been made; and any appointment as guardian of the adopted child which was made while the adoption order or adoption was in force shall cease to have effect: Provided that the discharge of the order or adoption shall not affect anything lawfully done or the consequences of anything unlawfully done while the order or adoption was in force;

(b) No change in the child's domicile shall occur by reason only of the discharge; but, where during the infancy of the child any natural parent

resumes custody of the child to whom the discharged order or adoption related, the domicile of the child shall be determined as if neither the discharged order or adoption nor any prior adoption order or adoption in respect of the child had been made;

(c) Any affiliation order, maintenance order, or agreement for payment of maintenance which ceased to have effect under section 16 (2) (i) have effect under its terms: Provided that nothing in this paragraph shall cause the order or agreement to have any effect in respect of the period while the adoption order or adoption remained in force:

Provided also that notice of the discharge of the adoption order or adoption shall be served on every person who is bound by the affiliation order, maintenance order, or agreement, but nothing in this proviso shall restrict the effect of the affiliation order, maintenance order, or agreement between the date of the discharge of the adoption order or adoption and the service of notice of the discharge;

(d) For the purposes of any other deed or instrument (except a will) made while the order or adoption was in force, or of the will or intestacy of any testator or intestate who died while the order or adoption was in force, or of any vested or contingent right of the adopted child or any other person under any such deed, instrument, will or intestacy, the order or adoption shall be deemed to continue in force.