

SOUTH AUSTRALIA

ADOPTION ACT 1988

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 6 March 1995.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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Adoption Act 1988 No. 90 of 1988 [Assented to 1 December 1988]¹

as amended by

Mental Health Act 1993 No. 59 of 1993 [Assented to 27 May 1993]²

¹ Came into operation 17 August 1989: *Gaz.* 17 August 1989, p. 566.

² Came into operation 6 March 1995: *Gaz.* 2 March 1995, p. 734.

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the Act see Appendix 1. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.*

An Act to provide for the adoption of children; to repeal the Adoption of Children Act 1967; to amend the Children's Protection and Young Offenders Act 1979; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

DIVISION 1—GENERAL

Short title

1. This Act may be cited as the *Adoption Act 1988*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Repeal of Adoption of Children Act

3. The *Adoption of Children Act 1967* is repealed.

Interpretation

4. (1) In this Act, unless the contrary intention appears—

"Australian law" means a law of the Commonwealth or of a State or Territory of the Commonwealth;

"child" means a person who has not attained the age of 18 years;

"child born outside lawful marriage" includes a child born to a lawfully married woman of which her husband is not the father;

"the Court" means the *Children's Court of South Australia* constituted of a Judge or a magistrate and two justices (at least one of the three being a woman and at least one a man);

"the Director-General" means the Director-General of Community Welfare;

"guardian", of a child, includes—

(a) a person who has custody of the child in pursuance of the order of a court; or

(b) a person who is a guardian of the child by virtue of an Australian law, or whose guardianship of the child is recognised under an Australian law;

"marriage relationship" means the relationship between two persons cohabiting as husband and wife or *de facto* husband and wife;

"relative", of a person, means a grandparent, brother, sister, uncle or aunt of the person, whether the relationship is of the whole blood or half blood or by affinity.

(2) For the purposes of this Act, a person will be regarded as an Aboriginal if—

(a) the person is descended from an Aboriginal or Torres Strait Islander; and

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- (b) the person regards himself or herself as an Aboriginal or Torres Strait Islander or, if the person is a young child, at least one of the parents regards the child as an Aboriginal or Torres Strait Islander; and
- (c) the person is accepted as an Aboriginal or Torres Strait Islander by an Aboriginal or Torres Strait Island community.

(3) If a man and woman are married according to Aboriginal tradition, they will be regarded as husband and wife for the purposes of this Act.

(4) A reference in this Act to publication in the news media is a reference to publication—

- (a) by radio or television; or
- (b) by newspaper or other periodical publication; or
- (c) by public exhibition.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

DIVISION 2—THE ADOPTION PANEL

Establishment of Adoption Panel

5. (1) The *South Australian Adoption Panel* is established.

(2) The panel consists of nine members appointed by the Minister of whom—

- (a) one is a clinical psychologist;
- (b) one is a legally qualified medical practitioner registered as a specialist in gynaecology;
- (c) one is a legally qualified medical practitioner registered as a specialist in paediatrics;
- (d) one is a legally qualified medical practitioner registered as a specialist in psychiatry;
- (e) one is a legal practitioner;
- (f) one is a social worker;
- (g) one is the nominee of the Director-General;
- (h) two are members of the public with special interest in the adoption of children.

(3) The Minister will, as occasion requires, appoint a member of the panel to preside at meetings of the panel.

(4) The members of the panel hold office at the pleasure of the Minister.

(5) The members of the panel are entitled to such allowances and expenses as may be determined by the Minister.

Functions of panel

6. (1) The functions of the panel are as follows—

- (a) to make recommendations to the Minister generally on matters relating to the adoption of children; and
- (b) to keep under review the criteria in accordance with which the Director-General determines who are eligible to be approved as fit and proper persons to adopt children and to recommend to the Minister any changes to those criteria that the panel considers desirable; and
- (c) to recommend to the Minister procedures for evaluation of, and research into, adoption; and
- (d) to make recommendations to the Minister on matters referred by the Minister to the panel for advice; and
- (e) to undertake such other functions as may be assigned to the panel by regulation.

(2) Before making a recommendation under subsection (1)(b), the panel must give the following organisations and persons a reasonable opportunity to make representations in relation to the proposed recommendation—

- (a) organisations with a special interest in the adoption of children; and
- (b) persons who have been approved as fit and proper persons to adopt children and whose approval may be affected by the recommendation; and
- (c) any other persons who have, in the opinion of the panel, a proper interest in the matter.

DIVISION 3—GENERAL PRINCIPLE

General principle

7. In all proceedings under this Act, the welfare of the child to whom the proceedings relate must be regarded as the paramount consideration.

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**PART 2
ADOPTION ORDERS**

DIVISION 1—POWERS OF THE COURT

General power of the Court

8. (1) The Court has power to make orders for the adoption of children.

(2) The Court cannot make an order for adoption except—

(a) in relation to a child who is in the State; and

(b) in favour of a person or persons who are resident or domiciled in the State.

(3) If in proceedings for an adoption order the necessary territorial nexus with the State is established as at the date of commencement of the proceedings or some other date following within 21 days of that date, it will be presumed that the nexus continues in the absence of proof to the contrary.

Effect of adoption order

9. (1) Subject to this section, where an adoption order is made, the adopted child becomes in contemplation of law the child of the adoptive parents and ceases to be the child of any previous natural or adoptive parents.

(2) If an adoption order is made in favour of a person who is cohabiting with a natural or adoptive parent of the child in a marriage relationship, the relationship of that parent to the child is not affected by the order.

(3) Where—

(a) one of the natural or adoptive parents of a child dies; and

(b) the surviving parent cohabits with another person in a marriage relationship; and

(c) the child is adopted by that other person,

the adoption does not exclude rights of inheritance from or through the deceased parent.

(4) Where an order for the adoption of a child is made, any previous order for the adoption or guardianship of the child ceases to have effect.

No adoption order unless preferable to guardianship in certain circumstances

10. The Court will not make an adoption order in favour of—

(a) a person who is cohabiting with a natural or adoptive parent of the child in a marriage relationship; or

(b) a relative of the child, either solely or jointly with any other person,

unless satisfied that adoption is clearly preferable to guardianship in the interests of the child.

Adoption of Aboriginal child

11. (1) The Court will not make an order for the adoption of an Aboriginal child unless satisfied that adoption is clearly preferable to guardianship in the interests of the child.

(2) Subject to subsection (3), an order for the adoption of an Aboriginal child will not be made except in favour of a member of the child's Aboriginal community who has the correct relationship with the child in accordance with Aboriginal customary law or, if there is no such person seeking to adopt the child, some other Aboriginal person.

(3) An order for the adoption of an Aboriginal child may be made in favour of a person who is not an Aboriginal person if the Court is satisfied—

- (a) that there are special circumstances justifying the making of the order; and
- (b) that the child's cultural identity with the Aboriginal people will not be lost in consequence of the adoption.

Criteria affecting prospective adoptive parents

12. (1) Subject to this section, an adoption order will not be made except in favour of two persons who have been cohabiting together in a marriage relationship for at least five years.

(2) An adoption order may be made in favour of two persons who have been cohabiting together in a marriage relationship for less than five years if the Court is satisfied that there are special circumstances justifying the making of the order.

(3) An adoption order may be made in favour of one person where—

- (a) that person has cohabited with a natural or adoptive parent of the child in a marriage relationship for at least five years; or
- (b) the Court is satisfied that there are special circumstances justifying the making of the order.

(4) Where two persons are cohabiting in a marriage relationship, an adoption order will not be made except in favour of both or in the circumstances described in subsection (3)(a).

(5) An adoption order will not be made in favour of a person who is lawfully married but not cohabiting with his or her spouse unless the Court is satisfied, after interviewing the spouse of the person in private, that the spouse consents to the adoption.

Adoption of person between 18 and 20 years in special circumstances

13. (1) An order may be made under this Act for the adoption of a person between the age of 18 and 20 years if the Court is satisfied—

- (a) that the person has been brought up, maintained and educated by the applicant or one of the applicants; and
- (b) that there are special reasons for making such an order.

(2) For the purposes of an adoption under subsection (1)—

- (a) this Act applies to the person in respect of whom the order is sought as if that person were a child; but
- (b) the parents of the person are not required to consent to the adoption.

Discharge of adoption orders on ground of fraud

14. (1) The Supreme Court may discharge an adoption order if it appears that the order was obtained by fraud, duress or other improper means.

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(2) The Supreme Court may, on discharging an adoption order, make any consequential orders that may be necessary or desirable in the circumstances of the case.

DIVISION 2—CONSENT TO ADOPTION

Consent of parent or guardian

15. (1) Subject to this section, an adoption order will not be made unless each person who is a parent or guardian of the child has consented to the adoption.

(2) The mother of a child cannot consent to the adoption of the child until 5 days after the birth of the child and, subject to subsection (3), a mother's consent given more than 5 but less than 14 days after the birth of the child will not be recognised as a valid consent to the child's adoption.

(3) The Court may recognise the validity of a consent of a mother given more than 5 but less than 14 days after the birth of the child, if satisfied—

- (a) that there were special circumstances justifying the giving of consent less than 14 days after the birth of the child; and
- (b) that the mother was able to exercise a rational judgment on the question of consent.

(4) The consent of a parent or guardian—

- (a) may be in general terms, authorising the adoption of the child by any persons in whose favour an order may be made; or
- (b) may be limited, authorising the adoption of the child—
 - (i) by a relative of the child; or
 - (ii) by a person who has been appointed a guardian of the child by a court; or
 - (iii) by a person who is cohabiting with a parent of the child in a marriage relationship; or
 - (iv) by a person in whose care the child has been placed by the Director-General, either solely or jointly with any other person.

(5) The consent of a parent or guardian—

- (a) must be in writing; and
- (b) must be witnessed in accordance with the regulations; and
- (c) must (except where the Minister or the Director-General is the guardian) be endorsed by an officer authorised by the Director-General to make such an endorsement with a statement to the effect that the parent or guardian has been counselled by that person at least three days before the giving of consent and appears to understand the consequences of adoption and the procedures for revoking the consent.

(6) The consent of a parent or guardian may be revoked by written notice of revocation served personally or by post on the Director-General within 25 days or, with the approval of the Director-General given within that period of 25 days, 39 days, of the date of the consent.

(7) The consent of the father of a child born outside lawful marriage is not required unless his paternity is recognised under the law of this State but if it appears to the Court that a particular person may be able to establish paternity of the child (not being a person whose paternity arises from unlawful sexual intercourse with the mother), the Court will not proceed to make an adoption order without allowing that person a reasonable opportunity to establish paternity.

(8) Where—

- (a) an application for an adoption order is supported by the Director-General; and
- (b) the Director-General has certified in writing that the child in respect of whom the order is sought entered Australia otherwise than in the charge of a parent or adult relative who proposed to care for the child while in Australia; and
- (c) the child has been in the care of the applicant or applicants for an adoption order for at least 12 months; and
- (d) the making of an adoption order in favour of the applicant or applicants would be in the best interests of the child,

the consent of the parents or guardians of the child to the adoption is not required.

Consent of child

16. (1) An adoption order will not be made in relation to a child over the age of 12 years unless—

- (a) the child has consented to the adoption; and
- (b) 25 days have elapsed since the giving of consent; and
- (c) the Court is satisfied, after interviewing the child in private, that the child's consent is genuine and the child does not wish to revoke it.

(2) The consent of a child—

- (a) must be in writing; and
- (b) must be witnessed in accordance with the regulations; and
- (c) must be endorsed by an officer authorised by the Director-General to make such an endorsement with a statement to the effect that the child has been counselled by that person.

Consent given under law of another State or a Territory

17. A consent to the adoption of a child given by a person in accordance with the law of another State or of a Territory of the Commonwealth will be regarded as a consent given by the person in accordance with this Act.

Court may dispense with consents

18. (1) The Court may dispense with the consent of a person (other than the child) to an adoption where it appears to the Court—

- (a) that the person cannot, after reasonable inquiry, be found or identified; or

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- (b) that the person is in such a physical or mental condition as not to be capable of properly considering the question of consent; or
- (c) that the person has abandoned, deserted or persistently neglected or ill-treated the child; or
- (d) that the person has, for a period of not less than one year, failed, without reasonable excuse, to discharge the obligations of a parent or guardian of the child; or
- (e) that there are other circumstances by reason of which the consent may properly be dispensed with.

(2) The Court may dispense with the consent of a child to an adoption where it appears to the Court that the child is intellectually incapable of giving consent.

Order of Court dispensing with or recognising consent

19. (1) In order to facilitate arrangements for the adoption of a child, the Court may, on application by or on behalf of the Director-General, make an order dispensing with or recognising the validity of a consent under this Division before an application for an adoption order has been made and any such order has effect for the purposes of any application for an adoption order that may subsequently be made under this Act.

(2) An order made under subsection (1) may, on the application of the Director-General or of the person whose consent was in question, be revoked by the Court at any time before the making of an adoption order in respect of the child.

DIVISION 3—RECOGNITION OF ADOPTION ORDERS

Recognition of adoption under Australian law

20. An adoption order made (before or after the commencement of this Act) under an Australian law, but not under the law of the State, will be recognised under the law of the State as having the same effect as an adoption order under the law of the State.

Recognition of adoption under foreign law on the basis of comity

21. (1) An adoption order made (after the commencement of this Act) under the law of a country outside Australia will be recognised under the law of the State as having the same effect as an adoption order under the law of the State if—

- (a) the order was made in accordance with the law of that country; and
- (b) when the order was made, each applicant was domiciled in that country or had been resident in that country for at least 12 months; and
- (c) the circumstances in which the order was made would, if they had existed in this State, have constituted a sufficient basis for making an adoption order under this Act; and
- (d) the proceedings in which the order was made involved no denial of natural justice or failure to observe the requirements of substantial justice.

(2) The Supreme Court may, on the application of an interested person, declare that an adoption order made under the law of a country outside Australia is or is not one that is to be recognised under the law of the State.

(3) The Attorney-General is entitled to intervene in any proceedings under subsection (2).

(4) Where immediately before the commencement of this Act an adoption order made under the law of a country outside Australia was recognised as having the same effect as an adoption order made in this State, the order continues to be so recognised.

DIVISION 4—GENERAL PROVISIONS

Court to consider report on suitability of adoptive parents

22. (1) Before making an order for the adoption of a child, the Court will consider any report prepared by or on behalf of the Director-General and submitted to the Court as to—

- (a) the circumstances of the child; and
- (b) the suitability of the prospective adoptive parents and their capacity to care adequately for the child.

(2) Subject to subsection (3), a copy of a report prepared under subsection (1) will be made available to the prospective adoptive parents.

(3) The Court may order that the contents or part of the contents of a report prepared under subsection (1) be suppressed from disclosure to the prospective adoptive parents or any other person.

(4) The Court may require prospective adoptive parents to submit evidence, to the satisfaction of the Court, of their good health.

Name of child

23. (1) Where the Court makes an order for the adoption of a child it may by the same or a subsequent order declare the name by which the child is to be known.

(2) Before making an order changing the name of a child, the Court should take into account any wishes expressed by the child on the subject.

(3) The Court will not change the name of a child who is over the age of 12 years unless—

- (a) the child consents to the change; or
- (b) the child is intellectually incapable of consenting.

(4) An order under this section does not prevent a subsequent change of name in accordance with the law of the State.

Proceedings to be private, etc.

24. (1) An application for an adoption order will not be heard in an open court.

(2) Except as authorised by the Court, the records of proceedings for an adoption order will not be open to inspection.

Guardianship of child awaiting adoption

25. (1) Where—

- (a) each parent or guardian of a child has consented to the adoption of the child in general terms or such consent has been dispensed with; or

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- (b) it is intended that an order for the adoption of a child be sought under this Act and arrangements are complete for the transfer of guardianship of the child from an officer of another State or a Territory of the Commonwealth whose functions correspond to those of the Director-General to the Director-General,

the Director-General is the guardian of the child, for all purposes except the giving of consent to the adoption of the child, to the exclusion of all other persons until—

- (c) an adoption order is made in respect of the child; or
(d) a consent referred to in paragraph (a) is lawfully revoked; or
(e) the child is placed under the guardianship of the Minister or some other person; or
(f) the child is placed in the custody of a parent of the child by the Director-General.

(2) The Director-General may, by agreement with some suitable person and on such conditions as the Director-General considers appropriate, place a child of whom the Director-General is the guardian under this section in the care of that person.

(3) The fact that the Director-General is the guardian of a child under this section does not affect the liability of any person to maintain the child.

Financial support in special cases

26. Where—

- (a) a child suffers from some physical or mental disability; or
(b) a child, for some other reason, requires special care,

the Minister may enter into an arrangement with prospective adoptive parents to contribute to the support of the child after the making of an adoption order.

Provision for open adoption

27. (1) Subject to a direction under subsection (3), the Director-General must disclose—

- (a) to an adopted person who has attained the age of 18 years—
- (i) the names, dates of birth and occupations, if known, of the person's natural parents; and
 - (ii) any other information that is in the Director-General's possession that relates to those parents but does not, in the opinion of the Director-General, enable them to be traced; and
 - (iii) the name, if known, of any person who would have been a brother or sister of the adopted person if the adoption order had not been made, who has himself or herself been adopted and who has attained the age of 18 years; and
 - (iv) the names, if known, of the adoptive parents of any such brother or sister; and
 - (v) any other information that relates to any such brother or sister but does not, in the opinion of the Director-General, enable that person to be traced;

- (b) to a natural parent of an adopted person who has attained the age of 18 years or, if the natural parents are dead, to a person who would have been a relative of the person if the adoption order had not been made—
 - (i) the name of the adopted person; and
 - (ii) the names of the adoptive parents; and
 - (iii) any other information that relates to the adopted person but does not, in the opinion of the Director-General, enable that person to be traced.

(2) The Director-General has a discretion to disclose information before an entitlement to the information arises under subsection (1), if—

- (a) in the case of disclosure to an adopted person—the adoptive parents and, if the name of a natural parent is to be disclosed, that parent approve the disclosure;
- (b) in the case of disclosure to a natural parent—the adoptive parents and, if the adopted person has attained the age of 12 years, the adopted person approve the disclosure.

(3) The Director-General must not disclose—

- (a) the name of a person who was adopted before the commencement of this Act or the name of an adoptive parent of such a person or the name, date of birth or occupation of a natural parent of such a person; or
- (b) any other information which, in the opinion of the Director-General, would enable such an adopted person or adoptive or natural parent to be traced,

contrary to the direction of the adopted person or natural parent.

(4) The Director-General may, before disclosing information to a person under subsection (1), require the person to attend an interview.

(5) The Minister may authorise disclosure of any information (without the required approvals or contrary to a direction) if the disclosure is necessary in the interests of the welfare of an adopted person.

(6) The Director-General must not arrange or assist any meeting between a person who was adopted before the commencement of this Act and a natural parent of the person contrary to the direction of either.

(7) A direction under this section—

- (aa) may, if the adopted person or natural parent is mentally incapacitated within the meaning of the *Guardianship and Administration Act 1993*, be given on behalf of that person or parent by his or her guardian appointed under that Act;
- (a) has effect for a period of five years, unless revoked earlier;
- (b) may, on the expiration of a period for which it has effect, be renewed;
- (c) must be lodged, renewed or revoked in a manner approved by the Director-General.

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**PART 3
MISCELLANEOUS**

Certain agreements illegal

28. (1) An agreement under which a parent or guardian of a child receives any consideration (other than a consideration of a kind authorised by the Director-General) for a consent to the adoption of the child, is illegal and void.

(2) A person who is a party to an agreement of a kind referred to in subsection (1) is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

Negotiations for adoption

29. (1) Subject to this section, a person or organisation that conducts negotiations leading, or intended to lead, to the making of an adoption order is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) Subsection (1) does not apply—

(a) to negotiations conducted for no fee by, or on behalf of, a parent, guardian or relative of a child for an adoption order in favour of a relative of the child or a person who is cohabiting with a parent of the child in a marriage relationship; or

(b) to negotiations conducted by a person or organisation approved by the Director-General.

(3) An approval under this section is subject to any prescribed conditions and any other conditions imposed by the Director-General.

(4) The Director-General may withdraw such an approval if the person or organisation—

(a) breaches a condition of the approval; or

(b) acts improperly in the course of negotiations of the kind referred to above.

(5) Any fee paid for negotiations conducted in contravention of this section may be recovered as a debt.

Enticing child away

30. A person must not take or entice a child away from a person who is entitled to custody of the child in pursuance of an adoption order with intent to deprive that person of the child.

Penalty: Division 5 fine or division 5 imprisonment.

Publication of names, etc., of persons involved in proceedings

31. (1) A person who publishes or causes to be published in the news media—

(a) the name of a child, or material tending to identify a child, in relation to whom proceedings have been taken under this Act;

(b) the name of a parent or guardian, or material tending to identify a parent or guardian, of a child in relation to whom proceedings have been taken under this Act;

- (c) the name of a party, or material tending to identify a party, to proceedings under this Act,

is guilty of an offence.

Penalty: Division 4 fine.

(2) This section does not prevent a publication made in pursuance of an authorisation granted by the Court or the Director-General.

Publication of certain material related to adoption

32. A person who publishes or causes to be published in the news media material to the following effect—

- (a) that a person desires to enter into negotiations with the parents or guardians of a child with a view to adoption of the child;
- (b) that a person has a child that he or she desires to place with adoptive parents,

is guilty of an offence.

Penalty: Division 4 fine.

False or misleading statements

33. A person must not make a statement knowing it to be false or misleading in a material respect for the purposes of, or in connection with, a proposed adoption under this Act.

Penalty: Division 6 fine or division 6 imprisonment.

Impersonation

34. A person must not falsely represent himself or herself to be a person whose consent to the adoption of a child is required by this Act.

Penalty: Division 6 fine or division 6 imprisonment.

Presenting forged consent

35. A person must not present, or cause to be presented, in connection with an application for an adoption order a document purporting to be an instrument of consent to the adoption knowing that the signature to the document is or was forged or obtained by fraud, duress or other improper means.

Penalty: Division 6 fine or division 6 imprisonment.

Confidentiality

36. A person who is, or has been, engaged in duties related to the administration of this Act must not disclose information relating to an adopted person or the natural or adoptive parents of an adopted person obtained in the course of those duties except—

- (a) in the administration of this Act; or
- (b) as authorised or required by law.

Penalty: Division 5 fine.

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Offences

37. (1) An offence against this Act is, if not punishable by imprisonment, a summary offence.

(2) An offence against this Act is, if punishable by imprisonment, a minor indictable offence.

(3) A prosecution for an offence against this Act will not be commenced without the consent of the Minister.

(4) In proceedings for an offence against this Act a document apparently signed by the Minister stating that the Minister consents to a particular prosecution will be accepted, in the absence of proof to the contrary, as proof of that consent.

Age

38. Where the age of a person is material to proceedings under this Act and there is no certain evidence of age, a court may act on its own estimate of the age of that person.

Intervention in proceedings

39. (1) The Director-General is entitled to intervene in any proceedings under this Act.

(2) A court may order that any person who has, in the opinion of the court, a proper interest in proceedings under this Act be joined as a party to the proceedings.

Costs

40. In proceedings under this Act, the Court may, subject to the regulations, make such orders as to costs and security for costs as it considers appropriate.

Registration

41. (1) Subject to a direction under subsection (2), the Principal Registrar of Births, Deaths and Marriages must, on receipt of notice of the adoption of a child, cancel any entry formerly made in the register of births relating to the child and make a fresh entry containing—

(a) a statement of the date and place of birth of the child; and

(b) the names of the persons who are in contemplation of law the parents of the child following the adoption.

(2) Subject to subsection (3), the Court may, on the application of the adoptive parents or the Director-General, direct the Principal Registrar of Births, Deaths and Marriages not to cancel any entry formerly made in the register of births relating to the child but instead to add to that entry a note of the names of the adoptive parents.

(3) Where either or both of the natural parents of the child are alive, the Court must not give a direction under subsection (2) unless satisfied that the information relating to the natural parents of the child contained in the entry is known to the child or that the natural parents approve of the child having access to that information.

(4) Subject to subsection (7), the Principal Registrar of Births, Deaths and Marriages must not allow any person access to information contained in an entry cancelled under subsection (1) or in an entry in the register of births relating to a person who was adopted before the commencement of this Act except on the authorisation of the Director-General.

(5) The Director-General must not authorise access to information by a person who was adopted before the commencement of this Act if a natural parent of the person directs the Director-General not to do so.

(6) A direction under subsection (5)—

- (a) has effect for a period of five years, unless revoked earlier;
- (b) may, on the expiration of a period for which it has effect, be renewed;
- (c) must be lodged, renewed or revoked in a manner approved by the Director-General.

(7) The Principal Registrar of Births, Deaths and Marriages may, without the authorisation of the Director-General, allow access to information contained in an entry cancelled under subsection (1)—

- (a) if the person to whom the entry relates has attained the age of 18 years, to that person;
- (b) to a natural parent of the person to whom the entry relates.

Regulations

42. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) In particular, the regulations may prescribe or make provision for—

- (a) matters of practice, procedure or evidence in or in connection with proceedings under this Act; and
- (b) the forms to be used for the purposes of this Act; and
- (c) fees to be paid in respect of any matter under this Act, and the waiving of any such fees; and
- (d) the keeping of registers of adoptions and the regulation of access to those registers; and
- (e) the practice and procedure to be followed in obtaining and giving notice of any consent required for the purposes of this Act; and
- (f) counselling in relation to adoption; and
- (g) the payment of witnesses' expenses in connection with proceedings under this Act; and
- (h) the criteria on which the eligibility of persons for approval by the Director-General as fit and proper persons to adopt children will be determined; and
- (i) the—
 - (i) keeping of registers of persons approved by the Director-General as fit and proper persons to adopt children; and
 - (ii) order in which persons whose names are included in a register may be selected to be applicants for adoption orders; and
 - (iii) removal of names from a register; and

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- (j) the institution, hearing and determination of proceedings to review—
 - (i) any decision of the Director-General refusing to approve a person as being a fit and proper person to adopt children; or
 - (ii) any decision by the Director-General to remove the name of a person from the register of persons whom he or she has approved as fit and proper persons to adopt children; or
 - (iii) any other decision of the Director-General under this Act of a kind specified in the regulations; and
 - (k) constituting adoption boards for the purpose of hearing and determining those proceedings, prescribing the practice and procedure of those boards and conferring on those boards—
 - (i) power to vary or reverse any decision of the Director-General in respect of which proceedings for review have been brought; and
 - (ii) power to remit any matter arising in the proceedings to the Director-General for further consideration; and
 - (iii) any incidental or ancillary powers; and
 - (l) fines not exceeding a division 8 fine for contravention of, or non-compliance with, a regulation.
- (3) The regulations may confer discretionary powers.

SCHEDULE

Section 88 of the *Children's Protection and Young Offenders Act 1979* is amended by inserting after subsection (2) the following subsection:

(3) This section does not apply to a report received by the Children's Court in proceedings for an adoption order.

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APPENDIX 1

LEGISLATIVE HISTORY

Section 27(7):

amended by 59, 1993, Sched. cl. 2

APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.