

South Australia

Adoption (Review) Amendment Act 2016

An Act to amend the *Adoption Act 1988*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Adoption (Review) Amendment Act 2016*.

2—Commencement

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

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Adoption Act 1988*

4—Insertion of section 3

Before section 4 insert:

3—Objects and guiding principles

- (1) The objects of this Act are—
 - (a) to emphasise that the best interests, welfare and rights of the child concerned, both in childhood and in later life, must be the paramount consideration in adoption law and practice; and
 - (b) to promote the principle that adoption is to be regarded as a service for the child concerned; and
 - (c) to ensure that adoption law and practice assist a child to know and have access to his or her birth family and cultural heritage; and
 - (d) to recognise the adoption of children from other jurisdictions and to endeavour to ensure that equivalent safeguards and standards to those that apply to children adopted in this State apply to children adopted from overseas; and
 - (e) to endeavour to ensure that adoption law and practice complies with Australia's obligations under treaties and other international agreements; and
 - (f) to encourage openness in adoption; and

- (g) to allow access to certain information relating to adoptions.
- (2) The Court, the Minister, the Chief Executive and other persons and bodies involved in the administration of this Act are to be guided by the following principles in the exercise of their powers or functions:
- (a) the best interests, welfare and rights of the child concerned, both in childhood and in later life, must be the paramount consideration;
 - (b) adoption is to be regarded as a service for the child concerned;
 - (c) adoption practices should reflect current community attitudes, best practice and values with respect to adoption;
 - (d) no adult has a right to adopt a child;
 - (e) if a child is able to form views on a matter concerning the child's adoption, the child must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child and the circumstances;
 - (f) the child's given name or names, identity, language and cultural and religious ties should, as far as possible, be identified and preserved.
- (3) In addition to the principles set out in subsection (2), a person or body exercising a function or power under this Act in relation to an Aboriginal or Torres Strait Islander child must observe the Aboriginal and Torres Strait Islander Child Placement Principle.

5—Amendment of section 4—Interpretation

- (1) Section 4(1)—before the definition of *adoptive parent* insert:
- Aboriginal and Torres Strait Islander Child Placement Principle* means the Aboriginal and Torres Strait Islander Child Placement Principle as set out in the regulations;
- (2) Section 4(1), definition of *child*—delete the definition and substitute:
- child* includes—
- (a) a person who is less than 18 years of age; and
 - (b) a person who is aged 18 years or more in respect of whom an order for adoption under this Act is sought or has been made;
- (3) Section 4(1)—after the definition of *the Court* insert:
- domestic partner*—a person is a domestic partner of another if they are in a qualifying relationship with each other;
- (4) Section 4(1), definition of *guardian*—after "child" first occurring insert:
- who is less than 18 years of age
- (5) Section 4(1), definition of *marriage relationship*—delete the definition

- (6) Section 4(1)—before the definition of *relative* insert:

party to an adoption—each of the following persons is a party to an adoption:

- (a) the adopted person;
- (b) the adoptive parents;
- (c) the birth parents;

psychologist means a person registered under the *Health Practitioner Regulation National Law* to practise in the psychology profession (other than as a student);

publish means publish by newspaper, radio or television, or on the internet, or by other similar means of communication to the public;

qualifying relationship means the relationship between 2 persons who are living together in a marriage or marriage-like relationship (irrespective of their sex or gender identity);

Registrar means the Registrar of Births, Deaths and Marriages;

- (7) Section 4(1)—after the definition of *relative* insert:

statement of wishes means a written statement given to the Chief Executive by an adopted person, birth parent or adoptive parent in accordance with section 27B setting out the person's wishes in relation to contact by another party to the adoption.

- (8) Section 4(2)—delete subsection (2) and substitute:

- (2) For the purposes of this Act, a reference to an ***Aboriginal or Torres Strait Islander person or child*** is to be taken to be a reference to a person or child (as the case may be)—

- (a) who is of Aboriginal or Torres Strait Islander descent; and
- (b) who—
 - (i) identifies as being of Aboriginal or Torres Strait Islander origin; or
 - (ii) in the case of a young child, is regarded by at least 1 of the child's parents as being of Aboriginal or Torres Strait Islander origin,

and is accepted as such by the community with which the person or child associates.

- (9) Section 4(3)—delete "Aboriginal" and substitute:

Aboriginal or Torres Strait Islander

- (10) Section 4(4)—delete subsection (4)

6—Repeal of section 7

Section 7—delete the section

7—Amendment of section 8—General power of Court

Section 8(1)—delete "orders for the adoption of children." and substitute:

an order for the adoption of a child—

- (a) who is less than 18 years of age on the date on which the application for the order is made; or
- (b) who is aged 18 years or more on that date.

8—Amendment of section 9—Effect of adoption order

Section 9(2) and (3)—delete "marriage relationship" wherever occurring and substitute in each case:

qualifying relationship

9—Amendment of section 10—No adoption order in certain circumstances

(1) Section 10(1)—delete subsection (1) and substitute:

- (1) The Court will not make an adoption order in relation to a child who is less than 18 years of age unless satisfied that adoption is in the best interests of the child and, taking into account the rights and welfare of the child, clearly preferable to any alternative order that may be made under the laws of the State or the Commonwealth.

(2) Section 10(2)—delete "the child" and substitute:

a child who is less than 18 years of age

(3) Section 10(2)—delete "marriage relationship" and substitute:

qualifying relationship

10—Insertion of section 10A

After section 10 insert:

10A—Adoption of child who has turned 18

- (1) The Court will not make an adoption order in favour of a child who is aged 18 years or more on the date on which the application for the order is made unless the Court is satisfied—
 - (a) that a significant parent to child relationship existed between the prospective adoptive parent or parents and the child before the child attained the age of 18 years; and
 - (b) that the child appears to understand the consequences of adoption on the child's interests, rights and welfare.
- (2) In determining whether a significant parent to child relationship existed for the purposes of subsection (1), the Court may take into account the following:
 - (a) whether the child was cared for by the prospective adoptive parent or parents, or by the prospective adoptive parent and their deceased spouse or domestic partner, as their child prior to reaching the age of 18 years;

- (b) whether the child was, under the *Children's Protection Act 1993*, placed in the care of the prospective adoptive parent or parents, or the prospective adoptive parent and their deceased spouse or domestic partner, prior to reaching the age of 18 years.
- (3) In proceedings for an adoption order relating to a child who is aged 18 years or more on the date on which the application for the order is made, a parent or guardian of the child, or any other person who has a proper interest in the application, may make submissions to the Court (either personally or through a representative).

11—Amendment of section 11—Adoption of Aboriginal or Torres Strait Islander child

- (1) Section 11(1)—delete subsection (1) and substitute:
 - (1) The Court will not make an adoption order in relation to an Aboriginal or Torres Strait Islander child unless satisfied that adoption is in the best interests of the child and, taking into account the rights and welfare of the child, clearly preferable to any alternative order that may be made under the laws of the State or the Commonwealth.
 - (1a) The Court must, before determining whether to make an order for the adoption of an Aboriginal or Torres Strait Islander child, consider—
 - (a) a report from the Chief Executive setting out consultation that has occurred with a recognised Aboriginal organisation or recognised Torres Strait Islander organisation (as the case requires); and
 - (b) any submissions made by or on behalf of a recognised Aboriginal or Torres Strait Islander organisation consulted in relation to the child.
 - (1b) In making an order for the adoption of an Aboriginal or Torres Strait Islander child, the Court must apply the Aboriginal and Torres Strait Islander Child Placement Principle.
- (2) Section 11(2) and (3)—delete "Aboriginal" wherever occurring and substitute in each case:

Aboriginal or Torres Strait Islander
- (3) Section 11—after subsection (3) insert:
 - (4) For the purposes of this section, a recognised Aboriginal or Torres Strait Islander organisation is an organisation that the Minister, after consulting with—
 - (a) the Aboriginal community or a section of the Aboriginal community; or
 - (b) the Torres Strait Islander community or a section of the Torres Strait Islander community,

(as the case requires) declares by notice in the Gazette to be a recognised Aboriginal organisation, or a recognised Torres Strait Islander organisation.

12—Amendment of section 12—Criteria affecting prospective adoptive parents

(1) Section 12(1) and (2)—delete subsections (1) and (2) and substitute:

- (1) Subject to this section, an adoption order may only be made in favour of 2 persons if—
- (a) they are in a qualifying relationship and have been living together continuously for at least the prescribed period (irrespective, in the case of married persons, of the date on which the marriage occurred) before the making of the order; or
 - (b) they are in a qualifying relationship and the Court is satisfied that there are special circumstances justifying the making of the order.

(2) Section 12(3)—delete subsection (3) and substitute:

- (3) Subject to this section, an adoption order may only be made in favour of 1 person if—
- (a) the person is in a qualifying relationship with a birth or adoptive parent of the child and—
 - (i) has been living together with that parent continuously for at least the prescribed period (irrespective, in the case of married persons, of the date on which the marriage occurred) before the making of the order; or
 - (ii) the Court is satisfied that there are special circumstances justifying the making of the order; or
 - (b) the person is not in a qualifying relationship and the Court is satisfied that there are special circumstances justifying the making of the order.

(3) Section 12(4)—delete "two persons are cohabiting in a marriage relationship" and substitute:

2 persons are living together in a qualifying relationship

(4) Section 12—after subsection (5) insert:

(6) In this section—

prescribed period means—

- (a) if the regulations prescribe a period—the period so prescribed; or
- (b) if no period is prescribed under paragraph (a)—5 years.

13—Substitution of section 14

Section 14—delete the section and substitute:

14—Discharge of adoption orders

- (1) An eligible person may apply to the Court for an order discharging an adoption order (a *discharge order*) on the grounds—
 - (a) that the adoption order or a consent for the purposes of the adoption order was obtained by fraud, duress or other improper means; or
 - (b) that it is in the best interests of the adopted person, taking into account the rights and welfare of the adopted person, for the discharge order to be made.
- (2) If an application is made under subsection (1), the Court must, if satisfied that there may be grounds on which a discharge order may be made, direct that an investigation be made into the circumstances relating to the application.
- (3) The Chief Executive and (if the Court so directs) a person nominated by the Attorney-General must conduct an investigation under subsection (2).
- (4) If, after consideration of a report of an investigation carried out under subsection (3), the Court is satisfied that a discharge order should be made, the Court will make the discharge order, unless it appears to the Court that to do so would be prejudicial to the rights, welfare and interests of the adopted person.
- (5) If the Court makes a discharge order under this section, any consent given under this Act for the purposes of the adoption of the person to whom the adoption order relates ceases to have effect, unless the Court otherwise orders.
- (6) The Court may, on making a discharge order relating to an adopted person, make any consequential or ancillary orders considered necessary by the Court, taking into account the rights, welfare and interests of the adopted person, including orders relating to—
 - (a) the name of the person; and
 - (b) the ownership of property; and
 - (c) the care, control, custody or guardianship of the person; and
 - (d) the domicile of the person; and
 - (e) any changes to be made by the Registrar to the entry in the register of births relating to the person.
- (7) Subject to any order under subsection (6), on the making of a discharge order, the rights, privileges, duties, liabilities, and relationships of the person to whom the adoption order relates and of all other persons will be the same as if the adoption order had not been made.

- (8) Nothing in subsection (7) affects—
- (a) anything lawfully done; or
 - (b) the consequences of anything unlawfully done; or
 - (c) a proprietary right or interest that became vested in a person, while the relevant adoption order was in force.
- (9) In addition, nothing in subsection (7) affects the right of an adopted person in respect of whom a discharge order has been made to obtain information in accordance with Part 2A (as if the person were an adopted person).
- (10) In this section—
- adoption order*** includes an adoption order made under the *Adoption of Children Act 1966* or any corresponding previous enactment;
- eligible person*** means any of the following persons:
- (a) the adopted person to whom an adoption order relates;
 - (b) a birth parent of the adopted person;
 - (c) an adoptive parent of the adopted person;
 - (d) the Chief Executive.

14—Amendment of section 15—Consent of parent or guardian

- (1) Section 15(4)(b)(iii)—delete "cohabiting" and substitute:
living together
- (2) Section 15(4)(b)(iii)—delete "marriage relationship" and substitute:
qualifying relationship
- (3) Section 15(5)(b)—after subparagraph (ii) insert:
and
- (iii) if the parent or guardian is less than 16 years of age, be endorsed by at least 2 psychologists authorised by the Chief Executive with a statement from each psychologist to the effect that the parent or guardian has been counselled by the psychologist at least 3 days before the giving of consent and the psychologist is of the opinion that the parent or guardian appears to have a sufficient understanding of the consequences of adoption such that the parent or guardian is able to make a responsible decision in relation to the consent.

15—Amendment of section 18—Court may dispense with consents

- Section 18(1)(d)—delete paragraph (d)

16—Amendment of section 23—Name of child

Section 23—delete subsection (3) and substitute:

- (3) The Court will not—
 - (a) in the case of a child who is over the age of 12 years—change the name of the child unless—
 - (i) the child consents to the change; or
 - (ii) the child is intellectually incapable of consenting; and
 - (b) in all cases—change the first name of a child unless—
 - (i) the first name is offensive or unsuitable; or
 - (ii) another child of the adoptive parents has the same first name.
- (3a) If the Court changes the first name of a child in accordance with subsection (3)(b), the Court should, so far as is reasonably practicable, seek to change the first name—
 - (a) so that the child's second name becomes the first name of the child; or
 - (b) to another name brought to the attention of the Court that is of significance to the child, taking into account the child's identity, language and cultural and (if relevant) religious ties.

17—Insertion of section 24A

After section 24 insert:

24A—Voluntary custody agreements

- (1) The parents or guardians of a child who is less than 18 years of age who are considering having the child adopted and the Chief Executive may enter into an agreement (a *custody agreement*) under which the Chief Executive has custody of the child during the period of the agreement.
- (2) Despite subsection (1)—
 - (a) if the whereabouts of a parent or guardian of a child cannot, after reasonable enquiries, be ascertained; or
 - (b) if a parent or guardian of a child has failed to respond within a reasonable period of time to a request that the parent or guardian enter into a custody agreement; or
 - (c) if it is not, in all the circumstances of the case, reasonably practicable to request a particular parent or guardian of a child to enter into a custody agreement,the remaining parent or guardian, or parents or guardians, may enter into a custody agreement in respect of the child.

- (3) The child may also be a party to a custody agreement if the Chief Executive considers it appropriate, having regard to the child's age and ability to understand the consequences of a custody agreement.
- (4) A custody agreement—
 - (a) must be in writing; and
 - (b) may be terminated at any time—
 - (i) by a child, parent or guardian who is a party to the agreement, by notice in writing to the Chief Executive; or
 - (ii) by agreement between the parties to the agreement; and
 - (c) will be taken to have been terminated on—
 - (i) the Chief Executive becoming the guardian of the child under section 25; or
 - (ii) an adoption order being made in relation to the child; or
 - (iii) an order being made under any other Act or law for the guardianship or custody of the child.
- (5) Unless the agreement is terminated under subsection (4), a custody agreement—
 - (a) has effect for a period, not exceeding 6 months, specified in the agreement; and
 - (b) may, on its expiration, be extended by the parties to the agreement in accordance with this section, but not so that the agreement will operate for a total period of more than 1 year.

18—Amendment of section 25—Guardianship of child awaiting adoption

Section 25(4)—delete subsection (4) and substitute:

- (4) This section does not apply to—
 - (a) a child who is under the guardianship of the Minister; or
 - (b) a child who is aged 18 years or more.

19—Amendment of section 27—Right to obtain information once adopted person turns 18

- (1) Section 27—after subsection (3) insert:
 - (3a) Subject to this Part, if an adopted person's birth parent was also an adopted person and is dead or cannot be located, the adopted person may obtain—
 - (a) the names of the birth parent's birth parents (if known); and
 - (b) any other information in the possession of the Chief Executive relating to the birth parent's birth parents.

- (2) Section 27(5)—delete "would be an unjustifiable intrusion on the privacy of the person to whom the information relates." and substitute:

would—

- (a) be an unjustifiable intrusion on the privacy of the person to whom the information relates; or
- (b) give rise to a serious risk to the life or safety of a person; or
- (c) in the case of information relating to a person adopted before 17 August 1989—not be in the best interests of the adopted person, taking into account the rights and welfare of the adopted person and any other prescribed matter.

20—Substitution of section 27B

Section 27B—delete the section and substitute:

27B—Limitation of right to obtain information relating to adoption prior to commencement of Act in certain cases

- (1) An old section 27B direction that is in effect immediately before the relevant day will, unless revoked earlier, continue to have effect until the expiry day.
- (2) Subject to this section, the Chief Executive must not disclose information in contravention of an old section 27B direction.
- (3) If an adoptive parent lodged an old section 27B direction but no such direction was lodged by the adopted person before the relevant day, the adoptive parent's old section 27B direction does not operate to prevent the disclosure of information that is relevant to the welfare or whereabouts of the adopted person.
- (4) A person who lodged an old section 27B direction may, at any time before the expiry day, give the Chief Executive a written statement setting out the person's wishes in relation to contact by another party to the adoption.
- (5) The Chief Executive must, as soon as is reasonably practicable after receiving a statement of wishes from a person, give a copy of the statement to the Registrar.
- (6) If the Chief Executive discloses information under section 27 relating to a person who has given the Chief Executive a statement of wishes, the Chief Executive must ensure that a copy of the statement accompanies the information disclosed.
- (7) In this section—

expiry day means the day that falls 5 years after the relevant day;

old section 27B means section 27B of this Act as in force immediately before the relevant day;

old section 27B direction means a direction lodged under subsection (1), (2) or (3) of old section 27B directing the Chief Executive not to disclose information in the Chief Executive's possession that would enable the person who lodged the direction to be traced continued in effect under this section;

relevant day means the day on which section 20 of the *Adoption (Review) Amendment Act 2016* comes into operation.

21—Amendment of section 27C—Interviews

Section 27C—delete "or accepting a direction from a person"

22—Amendment of section 28—Certain agreements illegal

Section 28(2), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$20 000 or imprisonment for 2 years.

23—Amendment of section 29—Negotiation for adoption

(1) Section 29(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$20 000 or imprisonment for 2 years.

(2) Section 29(2)(a)—delete "cohabiting" and substitute:

living together

(3) Section 29(2)(a)—delete "marriage relationship" and substitute:

qualifying relationship

24—Amendment of section 30—Enticing child away

Section 30, penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$20 000 or imprisonment for 2 years.

25—Amendment of section 31—Publication of names etc of persons involved in proceedings

(1) Section 31(1)—delete "in the news media"

(2) Section 31(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$40 000 or imprisonment for 4 years.

(3) Section 31(2)(a)(i)—delete "an adult" and substitute:

aged 18 years or more

(4) Section 31(2)(a)(ii)—delete "a child" and substitute:

less than 18 years of age

(5) Section 31(2)(a)(ii)—delete "the child" and substitute:

the person

(6) Section 31(2)(a)(iii)—delete "a child" and substitute:

less than 18 years of age

26—Amendment of section 32—Publication of certain material related to adoption

- (1) Section 32—delete "in the news media"
- (2) Section 32, penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$40 000 or imprisonment for 4 years.

27—Amendment of section 33—False or misleading statements

- Section 33, penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$20 000 or imprisonment for 2 years.

28—Amendment of section 34—Impersonation

- Section 34, penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$20 000 or imprisonment for 2 years.

29—Amendment of section 35—Presenting forged consent

- Section 35, penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$20 000 or imprisonment for 2 years.

30—Insertion of section 40A

After section 40 insert:

40A—Notification of death of party to adoption

- (1) If the Chief Executive is informed by the Registrar that an adopted person has died, the Chief Executive must, if the Chief Executive considers it appropriate to do so, take reasonable steps to inform—
 - (a) the adopted person's birth parents of the death; and
 - (b) each person who would have been a sibling of the adopted person (whether of the whole or half blood) if the adoption order had not been made.
- (2) If the Chief Executive receives information that a birth parent of an adopted person has died, the Chief Executive must, if the Chief Executive considers it appropriate to do so, take reasonable steps to inform the adopted person.
- (3) If the Chief Executive informs—
 - (a) the birth parents of an adopted person of the adopted person's death; or
 - (b) an adopted person of the death of a birth parent of the adopted person,

the fact that a direction lodged under section 27B by the deceased adopted person or birth parent (as the case may be) was in effect at the time of death does not prevent the Chief Executive from—

- (c) in the case of a deceased adopted person—disclosing to the birth parents information in the Chief Executive's possession relating to the adopted person; or
- (d) in the case of a deceased birth parent—disclosing to the adopted person information in the Chief Executive's possession relating to the birth parent.

31—Substitution of section 41

Section 41—delete the section and substitute:

41—Registration

- (1) The Registrar must, on receipt of notice of the adoption of a child—
 - (a) if the child's birth is registered in this State—add a note to the entry in the register relating to the child containing the names of the persons who are in contemplation of law the parents of the child following the adoption; or
 - (b) in any other case—make an entry containing—
 - (i) a statement of the date and place of birth of the child; and
 - (ii) the names of—
 - (A) the birth parents of the child (if known); and
 - (B) the persons who are in contemplation of law the parents of the child following the adoption.
- (2) Subject to this section, the Registrar must not allow any person access to information contained in an entry in the register of births relating to an adopted person who is less than 18 years of age.
- (3) If the parties to an adoption agree (whether at the time of the making of the adoption order or at a later date) that information in an entry in the register of births (including a cancelled entry) relating to an adopted person may be accessed before the adopted person turns 18, the parties may give the Chief Executive a notice indicating such agreement (a *consent notice*).
- (4) The Registrar may—
 - (a) if the Chief Executive has given the Registrar a consent notice, allow a party to an adoption access to information contained in the entry in the register of births relating to an adopted person who is less than 18 years of age (including a cancelled entry); or
 - (b) if the Registrar has not been given a consent notice—
 - (i) allow access by the adopted person or the adoptive parents to the information contained in the entry other than—

- (A) information in a cancelled entry; or
 - (B) without limiting subparagraph (A), information relating to the birth parents or the name of the adopted person before the adoption; and
 - (ii) allow access by the birth parents to the following information contained in the entry (whether or not the information is contained in a cancelled entry):
 - (A) the names of the birth parents;
 - (B) the name of the adopted person before the adoption;
 - (C) the statement of the date and place of birth of the adopted person.
- (5) A consent notice—
 - (a) has effect until the adopted person attains the age of 18 years, unless revoked before that date; and
 - (b) may be revoked at any time by any party to the adoption; and
 - (c) must be given or revoked in a manner and form approved by the Chief Executive.
- (6) Subject to section 41A, the Registrar—
 - (a) may allow any person access to information relating to an adopted person who is aged 18 years or more contained in an entry (other than a cancelled entry) in the register of births; or
 - (b) in the case of any such information in a cancelled entry—may allow access to the information—
 - (i) by the adopted person or a birth parent of the adopted person; or
 - (ii) by any other person on the authorisation of the Chief Executive.
- (7) The Chief Executive must not give an authorisation under subsection (6)(b)(ii) if the Chief Executive is of the opinion that to do so would give rise to a serious risk to the life or safety of a person.
- (8) If the Registrar—
 - (a) receives from the Chief Executive a statement of wishes; and
 - (b) allows access to information relating to the person who gave the statement of wishes to the Chief Executive,

the Registrar must ensure that, at the time of allowing access, the statement of wishes is given to the person to whom access is allowed.

(9) In this section—

cancelled entry means any entry formerly made in the register of births relating to an adopted person that was cancelled by the Registrar before the relevant day;

relevant day means the day on which section 31 of the *Adoption (Review) Amendment Act 2016* comes into operation.

41A—Limitation of right to access information on register relating to person adopted prior to commencement of Act in certain cases

- (1) An old section 41 direction that is in effect immediately before the relevant day will, unless revoked earlier, continue to have effect until the expiry day.
- (2) The Chief Executive must not, in contravention of an old section 41 direction, authorise the Registrar to allow access to the following information in the register of births by a person who was adopted before 17 August 1989:
 - (a) information contained in an entry cancelled under subsection (1) of old section 41;
 - (b) information in an entry relating to a person who was adopted before 17 August 1989.
- (3) The Registrar must not, except on the authorisation of the Chief Executive, allow any person access to the following information contained in the register of births relating to an adopted person:
 - (a) information in an entry cancelled under subsection (1) of old section 41;
 - (b) information in an entry relating to a person who was adopted before 17 August 1989.
- (4) Despite subsection (3), the Registrar may, without the authorisation of the Chief Executive, allow access to information contained in an entry in the register of births cancelled under subsection (1) of old section 41 relating to an adopted person—
 - (a) if the adopted person is aged 18 years or more—by the adopted person; or
 - (b) by a birth parent of the adopted person.
- (5) In this section—

expiry day means the day that falls 5 years after the relevant day;

old section 41 means section 41 of this Act as in force immediately before the relevant day;

old section 41 direction means a direction under subsection (5) of old section 41 that the Chief Executive must not authorise access to information by a person who was adopted before 17 August 1989 continued in effect under this section;

relevant day means the day on which section 31 of the *Adoption (Review) Amendment Act 2016* comes into operation.

- (6) This section expires on the expiry day.

Note—

The *Adoption Act 1988* came into operation on 17 August 1989.

32—Amendment of section 42—Regulations

- (1) Section 42(2)—delete "fit and proper" wherever occurring and substitute in each case:
suitable
- (2) Section 42(2)(1)—delete "\$1 250" and substitute:
\$10 000