

South Australia

**ADOPTION REGULATIONS 1989**

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## REGULATIONS UNDER THE ADOPTION ACT, 1988

### *Adoption Regulations, 1989*

being

No. 156 of 1989: *Gaz.* 17 August 1989, p. 571

as varied by

No. 206 of 1997: *Gaz.* 11 September 1997, p. 804<sup>1</sup>

No. 81 of 1998: *Gaz.* 28 May 1998, p. 2346<sup>2</sup>

No. 81 of 1999: *Gaz.* 27 May 1999, p. 2855<sup>3</sup>

**No. 88 of 2000: *Gaz.* 25 May 2000, p. 2769<sup>4</sup>**

<sup>1</sup> Came into operation 5 October 1997: reg. 2.

<sup>2</sup> Came into operation 1 July 1998: reg. 2.

<sup>3</sup> Came into operation 1 July 1999: reg. 2.

<sup>4</sup> **Came into operation 1 July 2000: reg. 2.**

N.B. The amendments effected to these regulations by Regulation No. 232 of 2000 had not come into operation at the date of, and have not been included in, this consolidation.

**NOTE:**

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

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**PART 1  
PRELIMINARY**

**Citation**

1. These regulations may be cited as the *Adoption Regulations, 1989*.

\* \* \* \* \*

**Interpretation**

3. In these regulations—

"**the Act**" means the *Adoption Act, 1988*;

"**adoption agency**" means a person or organisation approved by the Chief Executive under section 29 of the Act;

"**child with special needs**" means a child who has an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments;

"**the register**" means the *Prospective Adoptive Parents Register* kept under Part 3.

**PART 2**  
**CONSENT TO ADOPTION**

**Counselling**

4. (1) An officer authorized by the Chief Executive for the purposes of section 15(5)(b) or 16(2)(c) of the Act to counsel a person before that person consents to an adoption—

- (a) must give to that person an information brochure approved by the Chief Executive; and
- (b) must explain the information contained in the brochure to the person and must satisfy himself or herself that the person understands that information; and
- (c) must assist the person in considering the application of that information to the particular circumstances of the person; and
- (d) must, in the case of an adoption of an Aboriginal child, ensure that the person is aware of the availability of further specialized counselling from Aboriginal organizations and help the person to obtain such counselling if the person so wishes.

(2) The information brochure referred to in subregulation (1) must include information relating to—

- (a) in the case of a brochure to be given to a parent or guardian of a child consenting to adoption of the child—
  - (i) counselling and other support services available to parents or guardians; and
  - (ii) arrangements that may be made for care of a child as alternatives to adoption;
- (b) in the case of a brochure to be given to a child consenting to adoption—counselling and other support services available to children;
- (c) in both cases—
  - (i) the implications of adoption and the consequences of consenting to adoption; and
  - (ii) the procedures and time limits for revocation of consent to adoption.

**Witnessing**

5. (1) For the purposes of sections 15(5)(b) and 16(2)(b) of the Act—

- (a) the witness to a consent to adoption must be a person approved by the Chief Executive but cannot be the person who, for the purposes of the Act, counselled the person giving consent; and

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(b) the witness must, before witnessing a consent to adoption, satisfy himself or herself—

- (i) that the person giving consent understands the nature of the instrument of consent; and
- (ii) that the instrument of consent has been endorsed by a counsellor in accordance with the Act.

(2) A witness to an instrument of consent to adoption must, as soon as practicable after the execution of the instrument—

- (a) forward the original of the instrument to the Chief Executive; and
- (b) give a copy of the instrument to the person giving consent.

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**PART 3**  
**PROSPECTIVE ADOPTIVE PARENTS REGISTER**

**Prospective Adoptive Parents Register**

6. (1) The *Prospective Adoptive Parents Register* continues in existence.

(2) The register may be divided into subregisters, each relating to children of a particular kind.

(3) A subregister may, for example, relate to children of a particular age group, sex or racial origin or to children with special needs.

(4) Subject to this Part, a subregister will contain the names of persons registered as prospective adoptive parents in the order in which those persons lodged expressions of interest under regulation 7 in respect of adopting a child of the kind to which the subregister relates.

(5) If—

(a) a person is registered on a particular subregister following lodgement of an expression of interest under regulation 7; and

(b) while so registered, the person lodges another expression of interest under regulation 7 (in respect of adopting a child of a different kind),

the latter expression of interest will be taken to have been lodged at the time that the former expression of interest was lodged.

(6) The register is not available for public inspection.

**Expressions of interest and applications for registration**

7. (1) A person may, by notice in writing to the Chief Executive, express an interest in adopting a child.

(2) An expression of interest under subregulation (1) must specify the kind or kinds of child that the person is interested in adopting.

(3) The Chief Executive may, from time to time, invite persons who have expressed an interest in adopting a child of a particular kind to apply for registration on the subregister relating to children of that kind.

(4) The Chief Executive will not invite a person to apply for registration if satisfied that the person does not meet the minimum requirements for applicants for registration set out in regulation 8.

(5) Subject to subsection (6), an application for registration cannot be made except pursuant to an invitation given under this regulation.

(6) Where a person who is cohabiting with another person in a marriage relationship proposes to make an application for registration, the application must be made jointly with that other person.



**Minimum requirements for applicants for registration**

8. (1) A person cannot apply for registration as a prospective adoptive parent unless—

- (a) the person is 18 years of age or over but under 55 years of age; and
- (b) the person is resident or domiciled in the State; and
- (c) the person is a permanent resident of Australia and has been so resident for at least the last 3 years; and
- (d) the person is an Australian citizen or, in the case of a joint application for registration, at least one of the applicants is an Australian citizen.

(2) A person cannot apply for registration as a prospective adoptive parent if—

- (a) the person has previously been so registered (whether under these regulations or under the law of another State or a Territory of the Commonwealth) and that registration was cancelled on the ground that it was improperly obtained; or
- (b) a child has, at any time, been removed from the care or custody of that person and become the subject of a care and protection order made under the *Children's Protection Act 1993*, or any other similar order made in this State or another State or a Territory of the Commonwealth; or
- (c) the person has, as an adult, been convicted of an offence involving violence towards a child, abuse of a child or abduction of a child.

(3) A person cannot apply for registration on a subregister relating to children who are resident in a country outside Australia unless the person also complies with the minimum requirements of that country for adopting a child.

**Assessment report**

9. (1) The Chief Executive must cause an assessment report to be prepared with respect to an application for registration.

(2) The assessment report must contain an assessment of the suitability of the applicant to adopt a child of the kind in relation to which registration is sought and the capacity of the applicant to care adequately for such a child.

(3) An assessment report must be prepared having regard to the following factors:

- (a) the parenting skills or potential parenting skills of the applicant;
- (b) the capacity of the applicant to provide the standard of care necessary to safeguard and promote the physical, intellectual and emotional welfare of a child of the kind in relation to which registration is sought;
- (c) if the applicant has the care of any other child—the effect that may have on the welfare of an adopted child or on the applicant's ability to care for an adopted child;
- (d) the emotional warmth, maturity and stability of the applicant;

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- (e) the physical and mental health of the applicant;
- (f) the capacity of the applicant to deal with difficult or stressful situations;
- (g) in the case of a joint application—the length and quality of the relationship between the applicants;
- (h) the economic position and financial management skills of the applicant;
- (i) the criminal record (if any) of the applicant;
- (j) the nature of the childhood experiences of the applicant;
- (k) if the applicant is infertile—the attitude of the applicant to that infertility or, in the case of a joint application, the attitude of each applicant to that infertility;
- (l) the attitude of the applicant to children and in particular to the discipline of children;
- (m) the attitude of the applicant to the status of an adopted child, to the birth parents of an adopted child and to an adopted child's access to information about the child's origin;
- (n) the attitude of any children of the applicant and other close relatives of the applicant to adoption of a child by the applicant;
- (o) the motivation of the applicant to adopt a child;
- (p) if the applicant has expressed an interest in adopting a child with special needs—the capacity of the applicant to provide the standard of care required to fulfil the needs of such a child;
- (q) if the applicant has expressed an interest in adopting a child of a particular racial origin—the applicant's understanding of, and interest in, people of that racial origin and the applicant's attitude towards the retention by such a child of his or her cultural heritage.

(4) A person preparing an assessment report may have regard to any other factor that the person considers relevant in the particular circumstances.

(5) The Chief Executive may rely on an assessment report prepared by an adoption agency in relation to an application if satisfied that the agency, in preparing that assessment report, has complied with the requirements of this regulation (and in such a case the Chief Executive is not obliged to cause any other assessment report to be prepared in relation to the application).

### **Registration**

**10.** (1) A decision on an application must be made within 18 months of the date on which the application was lodged.

(2) If, after considering an assessment report prepared in relation to an application, the Chief Executive is satisfied that the applicant or, in the case of a joint application, each applicant is a fit and proper person to adopt a child of the kind in relation to which registration is sought, the Chief Executive will register the applicant or applicants on the appropriate subregister or subregisters.

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(3) Before the Chief Executive rejects an application, the applicant must be given an opportunity to make representations on the matter to the Chief Executive.

(4) Written notice of the Chief Executive's decision under this regulation, together with a copy of the relevant assessment report, must be given to the applicant.

(5) If the Chief Executive rejects an application, the notice of that decision must inform the applicant of the right to seek a review of the decision and must set out the procedures and time limits that apply in respect of seeking a review.

#### **Transfer of registration from another State**

**11.** (1) A person who has been registered as a prospective adoptive parent under the law of another State or a Territory of the Commonwealth that substantially corresponds to the Act and these regulations may apply to the Chief Executive to have that registration transferred to this State.

(2) If a person who is so registered duly applies for transfer of that registration under subregulation (1), the Chief Executive must enter the applicant's name in the register if satisfied that the applicant—

- (a) is registered under that other law; and
- (b) meets the minimum requirements for applicants for registration set out in regulation 8; and
- (c) has given notice of the application for transfer of registration, in writing, to the authority administering the other law.

(3) The Chief Executive may require a person transferring registration in accordance with this regulation to provide such information as is necessary to determine which subregister or subregisters the person's name should be entered in.

(4) Where a person who has been registered under another law becomes registered pursuant to this regulation, the entry in the register will be taken to have been made on the day on which the person was registered under the other law.

#### **Conversion of registration into joint registration**

**12.** (1) A person who is registered as a single prospective adoptive parent and who, following registration, commences cohabiting with another person in a marriage relationship may, if the other person meets the minimum requirements for applicants for registration set out in regulation 8, apply jointly with that other person to the Chief Executive to have the registration converted into joint registration.

(2) The Chief Executive will treat an application for conversion of registration under this regulation in all respects as if it were a joint application for registration made under regulation 7.

(3) Where a person's initial registration is converted into joint registration pursuant to this regulation, the entry in the register relating to that joint registration will be taken to have been made on the day on which the person's initial registration occurred.

**Duration and renewal of registration**

**13.** (1) Registration of a person as a prospective adoptive parent—

(a) has effect, subject to these regulations, for a period of 3 years; and

(b) may be renewed from time to time in accordance with this regulation; and

(c) ceases—

(i) on written notice of withdrawal being given to the Chief Executive by the registered person or, in the case of persons with joint registration, on the written notice of either of the registered persons; or

(ii) on the death of the registered person; or

(iii) on cancellation of the registration by the Chief Executive under these regulations.

(2) Subject to subregulation (3), an application for renewal of registration must be lodged with the Chief Executive not more than 3 months and not less than 1 month before the period of registration expires.

(3) The Chief Executive may, in his or her discretion, accept a late application for renewal of registration.

(4) A person may only apply for renewal of registration if the person meets the minimum requirements for applicants for registration set out in regulation 8.

(5) On receipt of an application for renewal of registration, the Chief Executive must cause the assessment report relating to the applicant to be reviewed having regard to any changes in circumstances of the applicant in the period since that report was prepared or was last reviewed.

(6) However, the Chief Executive may rely on a review of an assessment report undertaken by an adoption agency if satisfied that the agency, in undertaking the review, has had proper regard to any changes in circumstances of the applicant in the period since that report was prepared or was last reviewed.

(7) If, after considering the review of the assessment report, the Chief Executive is satisfied that the applicant or, in the case of a joint application, each applicant is still a fit and proper person to adopt a child of the kind in relation to which renewal of registration is sought, the Chief Executive will renew the registration for a further period of 3 years.

(8) Before the Chief Executive rejects an application for renewal of registration, the applicant must be given an opportunity to make representations on the matter to the Chief Executive.

(9) Written notice of the Chief Executive's decision under this regulation, together with a copy of the review of the assessment report, must be given to the applicant.

(10) If the Chief Executive rejects an application for renewal of registration, the notice of that decision must inform the applicant of the right to seek a review of the decision and must set out the procedures and time limits that apply in respect of seeking a review.

**Cancellation of registration**

**14.** (1) The registration of a person as a prospective adoptive parent will be cancelled if a child is placed for adoption with that person.

(2) The registration of a person as a prospective adoptive parent will be cancelled by the Chief Executive if—

- (a) the person attains the age of 55 years; or
- (b) the person ceases to be resident or domiciled in the State; or
- (c) the person ceases to be permanently resident in Australia; or
- (d) the person ceases to be an Australian citizen and, in the case of joint registration, the person with whom he or she is jointly registered is not an Australian citizen; or
- (d) a child is removed from the care or custody of that person and becomes the subject of a care and protection order made under the *Children's Protection Act 1993*, or any other similar order made in this State or another State or a Territory of the Commonwealth; or
- (e) the person is convicted of an offence involving violence towards a child, abuse of a child or abduction of a child; or
- (f) in the case of a person who is registered on a subregister relating to children who are resident in a country outside Australia—the person ceases to satisfy the minimum requirements of that country for adopting a child; or
- (g) the person's registration is transferred to another State or a Territory of the Commonwealth; or
- (h) the registration was improperly obtained.

(3) If the registration of a person is cancelled or otherwise ceases in accordance with these regulations, the Chief Executive will, unless satisfied that special reasons exist for not doing so, cancel the registration of a person jointly registered with that person.

(4) If persons who are jointly registered cease cohabiting in a marriage relationship, the Chief Executive will, unless satisfied that special reasons exist for not doing so, cancel the registration of both persons.

(5) A person registered as a prospective adoptive parent must, within 28 days of that registration becoming liable to cancellation under this regulation, inform the Chief Executive of that fact.

Maximum penalty: \$250.

(6) It is a defence to a charge of an offence under subregulation (5) for the defendant to prove that—

- (a) the defendant's registration only became liable to cancellation because, due to a change in the law of a country outside Australia, the person ceased to satisfy the minimum requirements of that country for adopting a child; and
- (b) the defendant did not know that the law of that country had so changed.

(7) The Chief Executive may, at any time, review the registration of a person and may, if the Chief Executive finds that the person is no longer a fit and proper person to adopt a child of the kind in relation to which the person is registered or, in the case of joint registration, that either person is no longer a fit and proper person to adopt such a child, cancel the registration of the person or persons.

(8) Before the Chief Executive cancels the registration of a person under this regulation (other than under subregulations (1) or (2)), the person must be given an opportunity to make representations on the matter to the Chief Executive.

(9) Written notice of the Chief Executive's decision to cancel registration under this regulation, together with a brief description of the reasons for that decision, must be given to each person affected by the decision.

(10) A notice under subregulation (9) must inform the person of the right (if any) to seek a review of the decision and must set out the procedures and time limits that apply in respect of seeking a review.

(11) A decision to cancel the registration of a person under subregulation (1) or (2) may not be the subject of a request for a review under regulation 16.

#### **Additional requirements relating to applications**

**15.** The Chief Executive may, for the purposes of determining an application under this Part, require the applicant—

- (a) to provide further information on any matter specified; or
- (b) to participate in specified workshops or seminars; or
- (c) to provide a medical report as to any specified matter from a medical practitioner nominated by the Chief Executive; or
- (d) to provide written consent authorising a third party to release information relating to the applicant to the Chief Executive.

**PART 4  
REVIEW**

**Application for review and constitution of adoption board**

**16.** (1) A person who is dissatisfied with a decision of the Chief Executive under Part 3 may, within 30 days of receipt of notice of the decision, request the Minister to refer the matter to an adoption board for review.

(2) The Minister must, on receipt of such a request, constitute an adoption board for the purposes of hearing the review and refer the matter to that board unless the Minister is satisfied—

- (a) that the request for the review is frivolous or vexatious; or
- (b) that the matter has already been the subject of review.

(3) An adoption board constituted for the purpose of hearing a review will consist of one or more members appointed by the Minister.

(4) If an adoption board consists of more than one member, the following provisions apply:

- (a) the Minister will appoint one of the members of the board to be the presiding member;
- (b) a decision in which a majority of the members concurs is a decision of the board;
- (c) if a member, other than the presiding member, dies or is for any reason unable to continue with the review proceedings, the board may continue to conduct the review with the remaining members (but, if there are only two remaining members, a decision of the board must be unanimous).

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**Proceedings**

**18.** (1) An adoption board must give the Chief Executive and the party seeking the review reasonable notice of the time and place at which it intends to conduct the review.

(2) An adoption board must give the party seeking the review a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make oral or written submissions to the board.

(3) If a person to whom notice has been given under subregulation (1) does not attend at the time and place fixed by the notice, the adoption board may hold the review in that person's absence.

(4) An adoption board is not bound by the rules of evidence and may inform itself on any matter in such manner as it thinks fit.

(5) An adoption board must act according to equity, good conscience and the substantial merits of the case.

(6) Subject to these regulations, the procedure at a review will be as determined by the adoption board hearing the review.

(7) The Chief Executive must make available to an adoption board any relevant assessment report and any other records or information as the board requests relating to the matter which is the subject of the review.

(8) The party seeking the review is entitled to appear personally or by counsel or, by leave of the adoption board hearing the review, by some other representative.

(9) The Chief Executive may appear personally in proceedings before an adoption board or may be represented at such proceedings by counsel or an officer of the Public Service.

(10) On completion of a review under these regulations, the adoption board must give notice of its decision to the Chief Executive and to the person who sought the review.

#### **Adoption board's powers**

**19.** On a review, an adoption board may—

- (a) confirm, vary or reverse the decision of the Chief Executive in respect of which the proceedings for review have been brought; or
- (b) remit any matter arising in the proceedings to the Chief Executive for further consideration; or
- (c) make such incidental or ancillary orders as it considers appropriate (including orders relating to entries in the register, to the assessment report relevant to the person who sought the review or to the documentation to be sent overseas for the purposes of adoption).



**PART 5**  
**PLACEMENT OF CHILDREN FOR ADOPTION**

**Principles governing placement of children for adoption**

**20.** (1) If, pursuant to section 25 of the Act or any other power, the Chief Executive decides to place a child in the care of a person with a view to the child being adopted by that person, the following provisions apply:

- (a) the child may only be placed with a person who is registered as a prospective adoptive parent;
- (b) in selecting a prospective adoptive parent, preference should be given to registered persons in the order in which those persons' names appear in the subregister or subregisters relating to children of the same kind as the child to be placed;
- (c) however, the Chief Executive is not obliged to offer to place the child with a person who would otherwise be given preference under this regulation if satisfied that—
  - (i) placement of the child with that person would be contrary to—
    - (A) the wishes of the child's birth parents; or
    - (B) in relation to placement of a child who is resident in a country outside Australia—the requirements of the law of that country governing placement of children for adoption; or
  - (ii) because of the particular circumstances of the child, placement with another registered person would better safeguard and promote the welfare and interests of the child (examples of those circumstances could be that the other person has previously adopted a sibling of the child or had the care or custody of the child);
- (d) the Chief Executive must not place, or offer to place, the child in the care of a person—
  - (i) whose registration is liable to cancellation under these regulations; or
  - (ii) who is under 25 years of age or is 47 years of age or more; or
  - (iii) who is not cohabiting with another in a marriage relationship; or
  - (iv) who is cohabiting with another in a marriage relationship if—
    - (A) the person has been so cohabiting for a continuous period of less than 3 years; or
    - (B) the other person is not jointly registered with the person as a prospective adoptive parent; or

- (v) who has any other child residing with him or her (unless the other child has been residing with the person for more than 2 years) or who will or is likely to have any other child residing with him or her in the period of 2 years following placement; or
- (vi) who is—
  - (A) in the case of a child being placed for adoption with a person who does not have any other child residing with him or her—more than 40 years older than the child being placed;
  - (B) in the case of a child being placed for adoption with a person who has another child residing with him or her—more than 45 years older than the child being placed,

unless satisfied that there are special circumstances relating to the child that justify placement of the child with that person.

(2) The Chief Executive may, at any time, withdraw an offer to place a child with a person under this regulation or remove a child who has been placed with a person under this regulation if the Chief Executive becomes aware of circumstances that, if known before the offer or placement was made, would have prevented the Chief Executive from making the offer to that person or placing the child with that person.

(3) Where a consent to adoption given in accordance with these regulations is subject to any conditions, this provision only operates to the extent that it is not inconsistent with those conditions.

**PART 6**  
**ACCESS TO INFORMATION**

**Lodgement and renewal of direction**

**21.** (1) A direction under section 27B of the Act, or a renewal of such a direction, may be lodged by posting or delivering it to the Chief Executive and must be—

- (a) in writing in a form determined by the Chief Executive; and
- (b) signed by the person lodging or renewing the direction; and
- (c) accompanied by—
  - (i) in the case of a direction posted to the Chief Executive or delivered by a person other than the person lodging or renewing the direction—copies of at least two documents evidencing the identity of the person lodging or renewing the direction (one of which must show the signature of the person) that have been certified as true copies by a person authorised under the *Oaths Act 1936* to take declarations and attest instruments; or
  - (ii) in the case of a direction delivered to the Chief Executive by the person lodging or renewing the direction—at least two documents evidencing the identity of the person (one of which must show the person's signature).

(2) The Chief Executive may take a copy of any document evidencing the identity of a person provided under subregulation (1)(c)(ii), but the original document will be returned forthwith to the person.

(3) A direction is taken to have been lodged or renewed from the time the Chief Executive receives the material required under this regulation.

**Renewal notices**

**22.** (1) At the time a direction under section 27B of the Act is lodged, the person lodging the direction must advise the Chief Executive whether or not the person would like renewal notices to be sent prior to expiry of the direction.

(2) If the person would like renewal notices to be sent, the person must also provide the Chief Executive with an address (which need not be the person's residential address) to which the notices may be sent.

**Revocation of direction**

**23.** A person who has lodged a direction under section 27B of the Act may revoke the direction at any time by posting or delivering to the Chief Executive a written notice of revocation signed by the person and accompanied by those documents evidencing the identity of the person that would be required on lodgement of a direction in accordance with this Part.

**PART 7**  
**REGISTER OF BIRTHS**

**Notification to Registrar of Births, Deaths and Marriages**

**35.** (1) The Court must, on making an adoption order, give notice of the order to the Registrar of Births, Deaths and Marriages.

(2) The Court must, on making any order subsequent to an adoption order declaring the name by which the adopted child is to be known, give written notice of that order to the Registrar of Births, Deaths and Marriages.

**Register of births**

**36.** (1) For the purposes of making a fresh entry in the register of births pursuant to section 41(1) of the Act, the adoptive parents of the child will be responsible for providing the Registrar of Births, Deaths and Marriages with any particulars required to make the fresh entry.

(2) If the Registrar of Births, Deaths and Marriages issues a copy of, or extract from, an entry in the register of births that has been cancelled pursuant to section 41(1) of the Act, the copy or extract will indicate that the entry has been cancelled.

(3) If the Registrar of Births, Deaths and Marriages issues a copy of, or extract from, an entry in the register of births that has been altered pursuant to section 41(2) of the Act, the copy or extract may show—

- (a) the entry with the additional note of the names of the adoptive parents; or
- (b) the entry with only the names of the adoptive parents of the child,

in accordance with the wishes of the person seeking that copy or extract.

**Birth or previous adoption registered elsewhere**

**37.** If the Registrar of Births, Deaths and Marriages receives notice of an adoption order, an order discharging an adoption order, or an order declaring the name of an adopted child, made pursuant to the Act and the Registrar believes that the birth or previous adoption of the child is registered in another State or a Territory of the Commonwealth, the Registrar must forward to the appropriate body in that other State or Territory details of the order so notified.

**PART 8  
MISCELLANEOUS**

**Forms**

**38.** A notice, application or renewal required under these regulations must be in a form determined by the Chief Executive and must be accompanied by such further documentation as is required by the Chief Executive.

**Fees**

**39.** (1) The fees set out in the schedule are payable as specified in that schedule.

(2) The Chief Executive may permit the payment by instalment of a fee payable under these regulations.

(3) The Chief Executive may waive or remit the payment of the whole or any part of a fee payable under these regulations.

**Offence to make false or misleading statement**

**40.** A person must not, in a notice, application or renewal lodged under these regulations—

(a) make a statement that is, to his or her knowledge, false or misleading; or

(b) omit or authorise the omission from any such document a particular which is, to his or her knowledge, a material particular.

Maximum penalty: \$1 250.

**Evidentiary**

**41.** (1) In any proceedings under the Act, an apparently genuine document purporting to be a consent to adoption given under these regulations will, in the absence of proof to the contrary, be taken to be a valid consent to adoption given under these regulations.

(2) In any proceedings under the Act, an apparently genuine document purporting to be signed by—

(a) the Chief Executive; or

(b) a person to whom functions and powers of the Chief Executive under the Act or these regulations have been delegated; or

(c) a person who, under the law of another State or a Territory of the Commonwealth, is entitled to exercise functions and powers corresponding to functions and powers of the Chief Executive under the Act or these regulations,

will, in the absence of proof to the contrary, be taken to have been so signed.

(3) In any proceedings under the Act, a certificate as to a delegation apparently signed by the Chief Executive will be accepted, in the absence of proof to the contrary, as proof of the delegation.

**SCHEDULE**

*Fees*

**Fees payable to the Chief Executive in respect of applications for adoption through the Prospective Adoptive Parents Register**

<b>1.</b>	On lodgement of an expression of interest under regulation 7(1)—	
	(a) standard fee . . . . .	\$170.00
	(b) fee for person whose previous registration has lapsed or who has adopted a child under the Act . . . . .	\$110.00
<b>2.</b>	On lodgement of an application for registration as a prospective adoptive parent—	
	(a) for new applicants . . . . .	\$500
	(b) for applicants who have applied previously . . . . .	\$275
<b>3.</b>	For the preparation of an assessment report by the Chief Executive—	
	(a) for new applicants . . . . .	\$500
	(b) for applicants who have previously been the subject of an assessment report . . . . .	\$250
<b>4.</b>	On lodgement of an application for transfer of registration under regulation 11 . . . . .	\$178
<b>5.</b>	On lodgement of an application for conversion of registration under regulation 12 . . . . .	\$284
<b>6.</b>	For preparation of an assessment report by the Chief Executive following an application for conversion of registration under regulation 12 . . . . .	\$284
<b>7.</b>	On placement of a child under regulation 20 . . . . .	\$250

**Fees payable to the Chief Executive in respect of other adoptions**

<b>8.</b>	For all functions associated with consent to adoption and, where necessary, the preparation of a report under section 22(1) of the Act prior to an application to the Court for an order for adoption of a child by a relative of the child, a person who has been appointed a guardian of the child by a court or a person who is cohabiting with a parent of the child in a marriage relationship—	
	(a) if the application for an adoption order is to relate to only one child . . . . .	\$232
	(b) if the application for an adoption order is to relate to more than one child . . . . .	\$232 for the first child and \$63.00 for each additional child named in the application

**Other fees payable to the Chief Executive**

<b>9.</b>	For obtaining information under section 27 or 27A of the Act . . . . .	\$50
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**APPENDIX****LEGISLATIVE HISTORY**

*(entries in bold type indicate amendments incorporated since the last consolidation)*

Regulation 2:	revoked by 206, 1997, reg. 3
Regulation 3:	definition of "adoption agency" inserted by 206, 1997, reg. 4(a) definition of "child with special needs" substituted by 206, 1997, reg. 4(b)
Regulation 4(1):	varied by 206, 1997, reg. 5
Regulation 5:	varied by 206, 1997, reg. 6
	Part 3 comprising regs. 6 - 15 and heading revoked and regs. 6 - 15 and heading inserted in its place by 206, 1997, reg. 7
Regulation 16(1):	varied by 206, 1997, reg. 8(a)
Regulation 16(2):	varied by 206, 1997, reg. 8(b)
Regulation 16(3) and (4):	inserted by 206, 1997, reg. 8(c)
Regulation 17:	revoked by 206, 1997, reg. 9
Regulation 18(1), (7), (9) and (10):	varied by 206, 1997, reg. 10
Regulation 19:	varied by 206, 1997, reg. 11
Regulation 20:	substituted by 206, 1997, reg. 12
	Part 6 comprising regs. 21 - 34 and headings revoked and regs. 21 - 23 and heading inserted in its place by 206, 1997, reg. 13
Regulation 35(1):	varied by 206, 1997, reg. 14(a)
Regulation 35(2):	varied by 206, 1997, reg. 14(b)
Regulation 36(1):	varied by 206, 1997, reg. 15(a)
Regulation 36(2):	varied by 206, 1997, reg. 15(b)
Regulation 36(3):	varied by 206, 1997, reg. 15(b), (c)
Regulation 37:	varied by 206, 1997, reg. 16
	Part 8 comprising regs. 38 - 41 and heading inserted by 206, 1997, reg. 17
Schedules 1 and 2:	revoked by 206, 1997, reg. 18
<b>Schedule:</b>	inserted by 206, 1997, reg. 18; <b>substituted by 81, 1998, reg. 3; 81, 1999, reg. 3; 88, 2000, reg. 3</b>