



ANNO VICESIMO QUINTO

# ELIZABETHAE II REGINAE

A.D. 1976

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## No. 65 of 1976

An Act to amend the Adoption of Children Act, 1966-1975.

[Assented to 25th November, 1976]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Adoption of Children Act Amendment Act, 1976".

(2) The Adoption of Children Act, 1966-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Adoption of Children Act, 1966-1976".

Amendment of  
principal Act,  
s. 2—  
Arrangement.

2. Section 2 of the principal Act is amended by striking out the item:—  
DIVISION 4—INTERIM ORDERS, ss. 35-37.

Amendment o  
principal Act,  
s. 4—  
Interpretation.

3. Section 4 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of "charitable organization";

(b) by striking out from subsection (1) the definition of "interim order";

(c) by striking out from the definition of "private adoption agency" in subsection (1) the passage "a charitable" and inserting in lieu thereof the word "an";

and

(d) by striking out from subsection (1) the definition of "the Director" and inserting in lieu thereof the following definition:—

"the Director-General" means the person for the time being holding, or acting in, the office of Director-General of Community Welfare under the Community Welfare Act, 1972-1975:.

4. Section 10 of the principal Act is amended by striking out from paragraph (b) of subsection (1) the passage "under a *de facto* adoption".
- Amendment of principal Act, s. 10—  
Who may be adopted.
5. Section 11 of the principal Act is amended by striking out from subsection (2) the passage "exceptional circumstances make it" and inserting in lieu thereof the passage "in the particular circumstances of the case it is".
- Amendment of principal Act, s. 11—  
Persons in whose favour adoption orders may be made.
6. Section 13 of the principal Act is amended—
- (a) by striking out the word "Director" wherever it occurs in subsections (1), (2) and (3) and inserting in lieu thereof, in each case, the words "Director-General";
- and
- (b) by striking out the passage "Department of Social Welfare" wherever it occurs in subsections (1) and (2) and inserting in lieu thereof, in each case, the passage "Department for Community Welfare".
- Amendment of principal Act, s. 13—  
Court to be satisfied as to certain matters.
7. Section 14 of the principal Act is amended by striking out from paragraph (a) of subsection (4) the word "Director" and inserting in lieu thereof the words "Director-General".
- Amendment of principal Act, s. 14—  
Procedure governing applications for adoption orders.
8. Section 15 of the principal Act is amended by striking out from subsection (2) the word "Director" and inserting in lieu thereof the words "Director-General".
- Amendment of principal Act, s. 15—  
Notice of application for adoption order.
9. Section 16 of the principal Act is amended—
- (a) by striking out the word "Director" wherever it occurs in subsections (1) and (2) and inserting in lieu thereof, in each case, the words "Director-General";
- and
- (b) by striking out from subsection (2) the passage "Department of Social Welfare" and inserting in lieu thereof the passage "Department for Community Welfare".
- Amendment of principal Act, s. 16—  
Notice of application for adoption order to be given to Director-General.
10. Section 19 of the principal Act is amended by striking out the passage "Minister of Social Welfare or the Director" and inserting in lieu thereof the passage "Minister or the Director-General".
- Amendment of principal Act, s. 19—  
Care of child after refusal of application.
11. Section 20 of the principal Act is amended by striking out from subsection (1) the passage "or that there is some other exceptional reason why, subject to the welfare and interests of the child, the adoption order should be discharged".
- Amendment of principal Act, s. 20—  
Discharge of adoption orders.
12. Section 24 of the principal Act is amended by striking out the word "Director" wherever it occurs and inserting in lieu thereof, in each case, the words "Director-General".
- Amendment of principal Act, s. 24—  
Revocation of consent.

Amendment of  
principal Act,  
s. 25—  
Form of  
consents.

13. Section 25 of the principal Act is amended by striking out from subsection (2) the word "Director" wherever it occurs and inserting in lieu thereof, in each case, the words "Director-General".

Amendment of  
principal Act,  
s. 27—  
Court may  
dispense with  
consents.

14. Section 27 of the principal Act is amended—

(a) by striking out the word "Director" from subsection (1) and inserting in lieu thereof the words "Director-General";

(b) by inserting after subsection (1) the following subsection:—

(1a) Where—

(a) an application for an adoption order is supported by the Director-General;

(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;

(c) the child has been in the care of the applicant or applicants for an adoption order for at least twelve 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,

no consent to the adoption is required.;

and

(e) by striking out the word "Director" wherever it occurs in subsections (2) and (3) and inserting in lieu thereof, in each case, the words "Director-General".

Amendment of  
principal Act,  
s. 28—  
Consent of  
child.

(3). 15. Section 28 of the principal Act is amended by striking out subsection

Amendment of  
principal Act,  
s. 29—  
Guardianship  
of child  
awaiting  
adoption.

16. Section 29 of the principal Act is amended—

(a) by inserting in subsection (1) after the passage "consent to the adoption of a child" the passage "(not being a child under the care and control of the Minister)";

(b) by striking out from subsection (1) the passage "the Director" and inserting in lieu thereof the passage "or where the Director-General becomes the guardian of a child in pursuance of subsection (2) of this section, the Director-General";

(c) by striking out paragraph (d) of subsection (1) and the word "or" immediately preceding that paragraph and inserting in lieu thereof the following paragraphs:—

(d) the child is placed under, or received into, the care and control of the Minister under the Community Welfare Act, 1972-1975;

or

(e) the child is placed in the custody of a parent of the child by the Director-General. ;

(d) by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) Where—

- (a) an officer of another State or of a Territory whose functions correspond to those of the Director-General under this Act has become the guardian of a child under a law of that State or Territory corresponding to this section;
- (b) the consent to the adoption of the child held by that officer cannot be lawfully revoked by the person or persons by whom it was given;
- (c) the Director-General is satisfied that the child is present in South Australia;
- (d) that officer has requested the Director-General to accept, and the Director-General has, by an instrument in writing forwarded to that officer, agreed to accept, guardianship of the child;

and

- (e) under that law, that officer ceases, upon the execution by him of an instrument renouncing his guardianship of the child, to be the guardian of the child,

the Director-General, upon the execution of that instrument, becomes the guardian of the child.

(2a) Where—

- (a) the Director-General is the guardian of a child under this section;
- (b) the consent to the adoption of the child cannot be lawfully revoked by the person or persons by whom it was given;
- (c) the Director-General is satisfied that the child is present in another State or in a Territory of the Commonwealth;
- (d) the Director-General has requested an officer of that State or Territory whose functions correspond to those of the Director-General under this Act to accept, and that officer has, by an instrument in writing forwarded to the Director-General, agreed to accept, guardianship of the child;

and

- (e) under the law of that other State or Territory, that officer will, upon the execution by the Director-General of an instrument in writing renouncing the Director-General's guardianship of the child, become the guardian of the child,

the Director-General may execute an instrument in writing renouncing guardianship of the child and, where he does so, shall forthwith forward the instrument to that officer.;

and

- (e) by striking out from subsections (3) and (4) the word "Director" wherever it occurs and inserting in lieu thereof, in each case, the words "Director-General".

Amendment of principal Act, s. 30—  
Joint effective adoption orders.

**17. Section 30 of the principal Act is amended—**

- (a) by striking out from subsection (1) the passage "and to the provisions of any law of this State that expressly distinguishes in any way between adopted children and children other than adopted children";

- (b) by striking out from paragraph (d) of subsection (1) the passage " , except as provided in subsection (5) of this section,";

and

- (c) by striking out subsection (5) and inserting in lieu thereof the following subsection:—

(5) Where—

- (a) a child in respect of whom an adoption order is to be made is under the care and control of the Minister;

and

- (b) the child suffers from some physical or mental disability,

the Minister may enter into an arrangement with the prospective adoptive parents of the child under which he will contribute to the support of the child after its adoption.

Amendment of principal Act, s. 32—  
Names of adopted child.

**18. Section 32 of the principal Act is amended—**

- (a) by striking out from subsection (1) the passage "subsection (2) of";

and

- (b) by inserting after subsection (2) the following subsection:—

(2a) Where, before the making of the adoption order, the adopted child has been generally known by a particular forename, or particular forenames, and the child is of or above the age of twelve years, the court shall not approve any change in that forename or those forenames unless the child consents to that change.

Repeal of ss. 35, 36 and 37 of principal Act.

**19. Sections 35, 36 and 37 of the principal Act and the heading immediately preceding those sections are repealed.**

Amendment of principal Act, s. 40—  
Declaration of validity of foreign adoptions.

**20. Section 40 of the principal Act is amended by striking out from subsection (3) the word "Director" wherever it occurs and inserting in lieu thereof, in each case, the words "Director-General".**

Amendment of principal Act, s. 44—  
Payments in consideration of adoptions, etc.

**21. Section 44 of the principal Act is amended—**

- (a) by striking out paragraph (b) of subsection (1) and inserting in lieu thereof the following paragraph:—

- (b) the giving of consent, or the revocation of consent, to the adoption of a child; ;

and

- (b) by striking out from subsection (3) the word "Director" wherever it occurs and inserting in lieu thereof, in each case, the words "Director-General".

22. Section 45 of the principal Act is amended by striking out from subsection (2) the word "Director" and inserting in lieu thereof the words "Director-General".

Amendment of principal Act, s. 45—  
Restriction on advertising, etc.

23. Section 47 of the principal Act is amended—

- (a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 47—  
Penalty for making unauthorized arrangements for adoptions.

(1) Subject to subsections (2) and (3) of this section, any person who, without being authorized in writing to do so by or on behalf of the Director-General—

(a) conducts or attempts to conduct any negotiations, or makes or attempts to make any arrangement with a parent or guardian of a child with a view to the adoption of the child;

(b) transfers or causes to be transferred the possession, custody or control of the child to some other person or persons with a view to the adoption of the child;

or

(c) receives a child into his possession, custody or control with a view to the adoption of the child,

shall be guilty of an offence and liable to a penalty not exceeding four hundred dollars or imprisonment for six months.;

and

- (b) by striking out from subsection (3) the word "Director" and inserting in lieu thereof the words "Director-General".

24. Section 58 of the principal Act is amended—

- (a) by inserting after the passage "in another State or in a Territory of the Commonwealth" the passage "or in a country outside Australia";

Amendment of principal Act, s. 58—  
Particulars of orders received from other States.

and

- (b) by inserting after the passage "that State or Territory" the passage "or country".

25. Section 59 of the principal Act is amended—

- (a) by striking out the passage "A charitable organization" and inserting in lieu thereof the passage "An organization";

- (b) by striking out the word "Director" and inserting in lieu thereof the words "Director-General";

Amendment of principal Act, s. 59—  
Application for approval of adoption agency.

and

(c) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) An application shall not be made by an organization formed for the purpose of profit.

Amendment of principal Act, s. 60—  
Director-General may grant or refuse application.

26. Section 60 of the principal Act is amended—

(a) by striking out from subsections (1) and (2) the word “Director” wherever it occurs and inserting in lieu thereof, in each case, the words “Director-General”;

(b) by striking out from subsection (2) the passage “a charitable organization” and inserting in lieu thereof the passage “entitled to apply for approval”;

(c) by striking out from subsection (3) the passage “a charitable” and inserting in lieu thereof the word “an”;

and

(d) by striking out from subsection (3) the word “Director” and inserting in lieu thereof the words “Director-General”.

Amendment of principal Act, s. 61—  
Principal officer of private adoption agency.

27. Section 61 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “a charitable organization” and inserting in lieu thereof the passage “an organization”;

(b) by striking out from subsection (2) the word “Director” and inserting in lieu thereof the words “Director-General”;

and

(c) by striking out from subsection (3) the word “charitable”.

Amendment of principal Act, s. 62—  
Revocation or suspension of approval.

28. Section 62 of the principal Act is amended—

(a) by striking out from subsection (1) the word “Director” and inserting in lieu thereof the words “Director-General”;

(b) by striking out from subsection (1) the passage “a charitable” and inserting in lieu thereof the word “an”;

and

(c) by striking out from subsection (2) the word “Director” and inserting in lieu thereof the words “Director-General”.

Amendment of principal Act, s. 63—  
Appeal against refusal, revocation or suspension.

29. Section 63 of the principal Act is amended—

(a) by striking out from subsections (1), (2) and (3) the word “Director” wherever it occurs and inserting in lieu thereof, in each case, the words “Director-General”;

and

(b) by striking out from paragraph (c) of subsection (1) the passage “a charitable” and inserting in lieu thereof the word “an”.

30. Section 64 of the principal Act is amended—

- (a) by striking out from subsection (1) the word “Director” and inserting in lieu thereof the words “Director-General”;  
and  
(b) by striking out from subsection (1) the word “charitable”.

Amendment of principal Act, s. 64—  
Notice of approval to be published in *Gazette*.

31. The following section is enacted and inserted in the principal Act after section 68 thereof:—

68a. No application under this Act shall be refused by reason only of the fact that the date of birth of the child to whom the proceedings relate is not known.

Enactment of s. 68a of principal Act—

Uncertainty as to date of birth no bar to proceedings under this Act.

32. Section 70 of the principal Act is amended—

- (a) by striking out paragraphs (a) and (b) of subsection (1) and inserting in lieu thereof the following paragraph:—  
(a) the office of the Director-General; ;  
(b) by striking out from paragraph (c) of subsection (1) the passage “Director of Social Welfare” and inserting in lieu thereof the passage “the Director-General”;  
and  
(c) by striking out from subsection (2) the word “Director” and inserting in lieu thereof the words “Director-General”.

Amendment of principal Act, s. 70—  
Judicial notice of signatures.

33. Section 72 of the principal Act is amended—

- (a) by inserting after paragraph (1) the following paragraph:—  
(1a) criteria in accordance with which persons will or will not be approved by the Director-General as fit and proper persons to adopt children; ;  
and  
(b) by striking out from paragraph (m) the word “Director” and inserting in lieu thereof the words “Director-General”.

Amendment of principal Act, s. 72—  
Regulations

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor