

# Adoption (Amendment) Bill

## EXPLANATORY MEMORANDUM

*Clause 1* Sets out the purpose of the Act.

*Clause 2* Provides for the Act to come into operation on a day or days to be proclaimed.

*Clause 3* Refers to the *Adoption Act 1984* as the Principal Act.

*Clause 4* (1) amends section 11 of the Principal Act to—

- (i) clarify the meaning of sub-section (4) (a); and
  - (ii) substitute new sub-sections (6) and (7) for the current sub-section
- (6) This is to clarify the intention of the section which is to confine adoption by step-parents to exceptional circumstances and focus on the preferred alternatives of guardianship and custody orders.

*Clause 4* (2) amends section 12 of the Principal Act to clarify the intention of the section; which is to confine adoption by natural relatives to exceptional circumstances and focus on the preferred alternatives of guardianship and custody orders.

*Clause 5* amends section 13 of the Principal which relates to age eligibility of adoptive parents. It provides different age requirements for the adoption of—

- (i) a child who is an Australian citizen; and
- (ii) a child who is a non-citizen.

*Clause 6* amends section 67 of the Principal Act relating to recognition of foreign adoptions by inserting specific conditions for recognition. These require that the adoptive parents were either domiciled in the foreign country or had been approved for adoption in Victoria before the child was placed with them.

*Clause 7* amends section 74 (3) of the Principal Act by inserting a new sub-section (4) to provide that the Registrar of Births, Deaths and Marriages may issue an extract from, or a copy of, an entry in the Register of Births marked “adopted” to a natural parent as defined in section 82 of the Act.

*Clause 8* substitutes new Sections 78 and 79 in the Principal Act and inserts new Sections 79A and 79B. The new Section 78 provides that where an adopted person or an adoptive parent applies for a birth certificate in the usual way they may be automatically given a birth certificate identical in form and content to the usual birth certificate, provided that the necessary information is available to the Registrar of Births, Deaths and Marriages in records available to the Registrar. If all the relevant information is not available, the Registrar must advise the applicant accordingly.

The Section further provides for issuing of alternative prescribed forms of the birth certificate if the relevant information is not available or where there would be delay in searching for records.

The new Section 79 retains the provision for the Registrar to add the place of birth of the adopted person to the face of the birth certificate or extract from the Adopted Children Register.

The new Section 79A empowers the Registrar to have management and control of court files of Victorian adoptions so that information included in these records may be added to the Adopted Children Register.

The new Section 79B enables the Director-General to apply to the Registrar for copies of information contained in Court records of Victorian adoptions which are in the custody of the Registrar.

*Clause 9* amends Section 85 (2) of the Principal Act by specifying who are included as parties to an application for an adoption order.

*Clause 10* inserts sub-section (3) in section 87 of the Principal Act to provide that the mandatory counselling interview is not required where the Director-General is satisfied that the adoptee and another person recorded on the adoptee's original birth certificate have already exchanged identifying information.

*Clause 11 (a)* substitutes a new Section 93 enabling an adopted person who has attained the age of eighteen years to apply to the relevant authorities for information about the adopted person whether or not the information is contained in adoption records. If the information applied for is not contained in the adoption records in the possession of the relevant authority and the information would identify the whereabouts of a natural parent or relative, the relevant authority cannot provide that information without obtaining a written agreement from the persons concerned.

*Clause 11 (b)* amends Section 94 (2) of the Principal Act to enable a guardian of an adopted child, if other than the adoptive parent, to consent to the child under 18 years receiving information regarding other parties to the adoption.

*Clause 12* amends Sections 95 (2) and 97 (3) of the Principal Act to enable the guardian of an adopted child, if other than the adoptive parent, to consent to release of identifying information to a natural parent or natural relative.

*Clause 13* amends Section 98 (2) of the Principal Act to provide that information may only be given to the adoptive parent of an adopted person who is 18 years or over, if the adopted person has been notified in writing of the intention to provide the information or there is evidence of the death of the adopted person.