

(5) The Director-General shall from time to time—

- (a) publicise the establishment of the Adoption Information Register; and
- (b) invite adopted persons and natural parents to record their wishes in relation to obtaining information about, or meeting or providing information to, another person whose name is, or may be entered in the Adoption Information Register.

(6) The Director-General shall, upon the request of a person whose name is entered in the Adoption Information Register, amend or cancel the entry relating to that person.

(7) The register maintained by the Director-General under section 66A of the *Adoption of Children Act* 1964 shall be incorporated in and form part of the Adoption Information Register maintained under this section.

#### **Director-General to give assistance.**

**104.** The Director-General shall make such reasonable enquiries as in all the circumstances of the case ought reasonably to be made for the purpose of assisting a person who seeks the assistance of the Adoption Information Service under section 102 (e).

### **PART VII.—MISCELLANEOUS**

#### **Division 1—General**

#### **Financial assistance.**

**105.** The Director-General may, out of moneys appropriated by Parliament for that purpose, make grants or provide other financial or other assistance on such terms and conditions as the Director-General determines to a person or persons with whom a child of a prescribed class has been placed for the purposes of adoption or to an adoptive parent, or adoptive parents, of a child of a prescribed class.

#### **Separate representation of child.**

**106. (1)** Proceedings under this Act relating to an application for an order—

- (a) for adoption of a child where that application is contested;
- (b) dispensing with the consent of a person to the making of an order for adoption of a child; or
- (c) discharging an order for adoption—

shall not be instituted or continued unless the child is separately represented in the proceedings.

(2) Where, in any other proceedings under this Act affecting a child, it appears to the Court that the child ought to be separately represented, the Court may, of its own motion or on the application of the child, the

Director-General, the principal officer of an approved agency or of any other organization concerned with the welfare of children or of any other person, order that the child be separately represented and the Court may make such other orders as it thinks necessary for the purpose of securing that separate representation.

**Hearings to be in camera.**

No. 7147, s. 60.

**107.** (1) An application under this Act shall not be heard in open court and persons who are not parties to the proceedings or their counsel, solicitors or representatives shall, except as otherwise directed by the Court, be excluded during the hearing of such an application.

(2) The Court may, at the hearing of an application under this Act—

- (a) order a child to leave the room or other place in which the Court is hearing the application at any time during the hearing if it is of opinion that such a direction should be given in the interests of the child; and
- (b) order any person to leave the room or other place during the examination of a witness.

**Director-General may appear at hearings.**

No. 7147, s. 63.

**108.** The Director-General, or a person appointed for the purpose by the Director-General, may appear at the hearing of the proceedings on any application for an adoption order, and may address the Court, and call, examine and cross-examine witnesses.

**Costs.**

No. 7147, s. 64.

**109.** In proceedings under this Act, the Court shall not make orders as to costs or security for costs unless the Court is satisfied that special circumstances exist which make it desirable so to do.

**Judicial notice of signatures.**

No. 7147, s. 65.

**110.** In proceedings under this Act, judicial notice shall be taken of the signature of a person who holds or has held, or is acting or has acted in, the office of the Director-General, or the corresponding office in another State or in a Territory or of any delegate of such a person, appearing on a document and of the fact that at the time the document was signed by the person, the person held, or was acting in, that office.

**Certified copies, &c., of adoption orders to be evidence.**

No. 7147, s. 66.

**111.** In any proceedings in any Court or before a justice or justices—

- (a) a certified copy of an adoption order made by any Court (whether in Victoria or elsewhere) or a certified extract giving particulars of any such order and purporting to be signed by the proper officer of the Court which made the order; or

- (b) a certified copy of an entry in any public official record of the adoption of children (whether kept in Victoria or elsewhere) or a certificate or extract giving particulars of any such entry and purporting to be signed by the person having the custody of such record—

shall be *prima facie* evidence of the making of the order and of the facts stated therein.

**Fees for assessment of applicants for adoption of child outside Australia.**

112. (1) Where an application is made by a person or persons to the Director-General or the principal officer of an approved agency for a report relating to the suitability of the applicant or applicants as a person or persons—

(a) to adopt a non-citizen child; or

(b) to adopt a child in a place outside Australia—

(whether or not the child is identified) the Director-General or principal officer may, in the discretion of the Director-General or principal officer, make the report and require payment by the applicant or applicants of a fee not exceeding the amount prescribed for the purposes of this section in relation to applications of that class.

(2) Where a fee has been paid under sub-section (1) and, before the report is made, the applicant or applicants give notice in writing to the Director-General or principal officer that the applicant or applicants is not, or are not, proceeding with a proposal to adopt a non-citizen child or a child in a place outside Australia, the Director-General or principal officer may, in the discretion of the Director-General or principal officer, refund the whole or a part of the fee to the applicant or applicants.

**Waiver of fees.**

113. The Director-General or the principal officer of an approved agency may waive or reduce, in a particular case or classes of cases, fees that would otherwise be payable pursuant to this Act to the Director-General or the principal officer, as the case may be.

**Government Statist to give notices concerning Aboriginal children.**

114. (1) Where a memorandum was sent to the Government Statist under section 70 (2) in relation to the adoption of a child, the Government Statist shall, on or within the period of 28 days after the adopted child attains the age of twelve years, give notice in writing—

(a) to the Aboriginal agency (if any) named in the memorandum or, where it has ceased to exist, to such other agency (if any) as is prescribed for the purposes of this section; and

(b) to the Director-General—

stating that the adopted child has attained the age of twelve years.

(2) Where the Director-General receives a notice under sub-section (1), the Director-General shall take reasonable steps to ensure that notice is given—

- (a) to the adopted child; and
- (b) to the adoptive parents of the adopted child or, where they cannot be found, to some other person in whose care the child is for the time being—

to the effect that the adopted child may be entitled to certain rights and privileges that exist for the benefit of the child.

#### **Arrangements for adoption of children outside Australia.**

115. (1) Arrangements for or towards or with a view to the adoption in a country outside Australia of a child present in Victoria may be made by or on behalf of the Director-General or by or on behalf of an approved agency.

(2) The Director-General or an approved agency shall not make arrangements under sub-section (1) except with a prescribed person or prescribed organization or a person or organization included in a prescribed class of persons or organizations, being a person or organization resident in a country outside Australia that makes arrangements for the adoption of children.

(3) Where—

- (a) the Director-General or the principal officer of an approved agency is the guardian of a child in respect of whom arrangements are being made under this section; and
- (b) under those arrangements, another person will become the guardian of the child upon renunciation of guardianship by the Director-General or principal officer—

the Director-General or principal officer may renounce guardianship of the child.

### **Division 2—Offences**

#### **Territorial application of Part.**

No. 7147, s. 44.

116. This Part does not apply in respect of acts occurring outside Victoria, but, unless otherwise expressly provided, does apply in respect of acts done in Victoria in relation to adoption of children in, or children adopted in, any other State or a Territory or a country outside the Commonwealth and the Territories.

#### **Taking away, &c., adopted child by natural parent.**

No. 7147, s. 45.

117. Any person who was the father or mother or a guardian of a child but is not, by reason of an adoption of the child, to be treated in law as the father or mother or a guardian of the child who takes, leads, entices, or decoys the child away or detains the child, with intent to

deprive the adoptive parent or adoptive parents of the child shall be guilty of an offence.

**Harbouring child taken from adoptive parents.**

**118.** Any person who receives or harbours a child on behalf of a person who, to his knowledge has taken, led enticed or decoyed the child away, or is detaining the child, in contravention of section 117, shall be guilty of an offence.

No. 7147, s. 46.

**Payments in consideration of adoptions, &c.**

**119.** (1) Subject to this section, any person who (whether before or after the birth of the child concerned) makes, gives or receives, or agrees to make, give or receive, a payment or reward for or in consideration of—

No. 7147, s. 47.

- (a) the adoption or proposed adoption of a child;
- (b) the giving of consent, or the signing of an instrument of consent, to the adoption of the child;
- (c) the transfer of the possession or custody of a child with a view to the adoption of the child; or
- (d) the making of arrangements with a view to the adoption of a child—

shall be guilty of an offence.

(2) Sub-section (1) does not apply to or in relation to any of the following payments or rewards in connexion with an adoption or proposed adoption under this Act or under the law of another country:

- (a) A payment of legal expenses;
- (b) A payment of fees authorized under section 112 or under the regulations;
- (c) A payment made by the adoptive parent or adoptive parents, with the approval in writing of the Director-General or with the approval of the Court, in respect of the hospital and medical expenses reasonably incurred in connexion with the birth of the child or the ante-natal or post-natal care and treatment of the mother of the child or of the child;
- (d) A payment by the Director-General made in accordance with section 105; or
- (e) Any other payment or reward authorized by the Director-General or by the Court.

(3) Sub-section (1) does not apply to or in relation to a payment or reward in connexion with an adoption or proposed adoption under the law of another State or of a Territory if the making of the payment or the giving of the reward or any agreement so to do would have been lawful if it had taken place in that State or that Territory.

**Restrictions on advertising.**

No. 7147, s. 48.

**120.** (1) Subject to this section, any person who publishes, or causes to be published, in a newspaper or periodical, or by means of broadcasting, television or public exhibition, any advertisement, news item, or other matter indicating (whether or not in relation to a particular child, born or unborn) that—

- (a) a parent or guardian of a child wishes to have the child adopted;
- (b) a person wishes to adopt a child; or
- (c) a person is willing to make arrangements with a view to the adoption of a child—

shall be guilty of an offence.

(2) Sub-section (1) shall not apply in relation to an advertisement or other matter that has been approved by the Director-General or by the principal officer of an approved agency.

**Restriction on publication of identity of parties.**

No. 7147, s. 49.

**121.** (1) Subject to this section, any person who at any time publishes, or causes to be published, in a newspaper or periodical, or by means of broadcasting or television, in relation to a consent given or dispensed with or an application made under this Act or under a law of another State or of a Territory for the adoption of a child or the proceedings on such an application, the name of an applicant, the child, or the father or mother or a guardian of the child, of any matter reasonably likely to enable any of those persons to be identified shall be guilty of an offence.

(2) This section does not apply to the publication of matter—

- (a) with the authority of the Court—
  - (i) to which an application for an adoption order was made; or
  - (ii) to which application under sub-section (3) is made;
- (b) by a person who has obtained that information under Part VI.; or
- (c) that relates to the name of a parent (other than an adoptive parent) of the child where, in accordance with the adoption order, the name of that parent is shown on the birth certificate of the child issued after the order is made.

(3) A person may make application to the Court for authority to publish matter to which sub-section (1) applies where—

- (a) the adopted person to whose adoption the matter relates has attained the age of eighteen years; and
- (b) the applicant is a relative of the adopted person.

**Penalty for making unauthorized arrangements.**

122. (1) Any person who, without being authorized in writing for the purpose by the Director-General or the principal officer of an approved agency—

No. 7147, s. 50.

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

shall be guilty of an offence.

(2) The provisions of sub-section (1) do not apply to any arrangements made by or on behalf of a parent, guardian or relative of a child for the adoption of the child by a spouse of a parent of the child or by a relative, or a relative and the spouse of the relative, of the child.

**Agency, &c., to comply with request for information.**

123. (1) Where the Director-General requests an approved agency or other body or a person to give information to the Director-General or to another person under this Part, the approved agency, other body or person shall comply with the request so far as it or the person is able to do so.

(2) Where an approved agency, other body or person has information to which a request made to the agency, body or person under sub-section (1) relates, the agency, body or person shall comply with the request within the prescribed period after the request is made.

Penalty: 10 penalty units.

**False statements.**

124. Any person who, whether orally or in writing, wilfully makes a false statement for the purposes of or in connexion with a proposed adoption or any other matter under this Act shall be guilty of an offence.

No. 7147, s. 51.

**Personation.**

125. Any person who personates or falsely represents himself to be a person whose consent to the adoption of a child is required by this Act or by the law of another State or of a Territory shall be guilty of an offence.

No. 7147, s. 52.

**Presenting forged consent, &c.**

126. Any person who presents, or causes to be presented, to the Court in connexion with an application for an order for the adoption of a child under this Act a document purporting to be an instrument of

No. 7147, s. 53.

consent to the adoption signed by a person whose consent to the adoption is required by this Act knowing—

- (a) that the signature is or was forged or obtained by fraud or duress; or
- (b) that the instrument has been altered after it has been signed (otherwise than by the person signing it)—

shall be guilty of an offence.

**Improperly witnessing consent to adoption.**

No. 7147, s. 54.

127. A person shall not subscribe a name as a witness to the signature of a person to an instrument of consent to the adoption of a child (whether under this Act or under the law of another State or of a Territory) except in accordance with Division 3 of Part II.

**Penalty.**

No. 7147, s. 55.

128. Any person guilty of an offence against this Part for which no penalty is expressly provided shall be liable to a penalty of not more than 25 penalty units or to imprisonment for a term of not more than six months.

**Authority to prosecute.**

No. 7147, s. 56.

129. Proceedings for an offence against this Act or against the regulations shall not be commenced except by, or with the written consent of, the Director of Public Prosecutions.

**Division 3—Regulations**

**Regulations.**

No. 7147, s. 67.

130. The Governor in Council may make regulations prescribing all matters which by this Act are authorized or required to be prescribed for the purposes of this Act and, in particular, making provision for or in relation to—

- (a) matters of practice or procedure in or in connexion with consents to be used for the purposes of this Act;
- (b) the forms to be used for the purposes of this Act;
- (c) requirements to be observed and facilities to be provided in relation to the making of arrangements with a view to the adoption of children;
- (d) the qualifications and experience of persons engaged in making arrangements with a view to the adoption of children and standards and procedures to be observed in providing any service to the public in relation thereto;
- (e) notifying any change in the address or in the management or control of approved agencies and making returns in relation to the conduct of the business of approved agencies;



- (f) factors to be considered in the placement of children for the purposes of adoption under this Act;
- (g) the keeping of registers by the Director-General or the principal officer of an approved agency of persons approved by the Director-General or principal officer as fit and proper persons to adopt children;
- (h) fees to be paid to the Director-General or to the principal officer of an approved agency by persons who apply for the inclusion of their names on a list of persons seeking approval for inclusion of their names in a register kept under regulations made under paragraph (g);
- (i) fees to be paid by an applicant or applicants for any application under this Act to the Director-General or to an approved agency to cover administrative and other expenses in any case where the Director-General or principal officer prepares documents or provides copies of documents relating to the application on behalf of the applicant or applicants;
- (j) fees to be paid for applications under Part VI. or for information given to an applicant under that Part;
- (k) exempting persons included in particular classes of persons from liability to pay all or any fees prescribed under paragraph (h), (i) or (j);
- (l) the making of appeals against a decision of the Director-General or the principal officer of an approved agency—
  - (i) refusing to approve a person as a fit and proper person to adopt a child;
  - (ii) deferring the making of a decision to refuse or approve a person as a fit and proper person to adopt a child; or
  - (iii) revoking the approval of a person as a fit and proper person to adopt a child;
- (m) appointing an Adoption Appeals Committee consisting of a legal practitioner experienced in family law and three other persons who are experienced in child or family welfare to hear and determine appeals against matters to which regulations made under paragraph (l) refer, prescribing the practice and procedure of the Committee and conferring on the Committee—
  - (i) power to direct the Director-General or the principal officer of an approved agency to reconsider the decision in respect of which an appeal is made in the light of specified factors; and
  - (ii) incidental or ancillary powers; and
- (n) penalties, not exceeding 5 penalty units, for offences against the regulations.

S.3(1).

SCHEDULE  
REPEALS AND AMENDMENTS

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
7147	<i>Adoption of Children Act 1964</i>	Whole Act
9231	<i>Domicile Act 1978</i>	S.12
9510	<i>Adoption of Children (Information) Act 1980</i>	Whole Act
9859	<i>Freedom of Information Act 1982</i>	In section 33 (7) for the expression " <i>Adoption of Children Act 1964</i> ", there shall be substituted the expression " <i>Adoption Act 1984</i> ".
	<i>Children (Guardianship and Custody) Act 1984</i>	In section 20 for the expression " <i>Adoption of Children Act 1964</i> " there shall be substituted the expression " <i>Adoption Act 1984</i> ".

**Acts of the Parliament (of Victoria) [electronic resource]**

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