

12 The Governor may make regulations for the purposes of ^{Regulations.} this Act and in particular for—

- (a) forbidding, or imposing conditions on the providing, taking part in, engaging in, or attending any specified, or specified class of, game or entertainment on all Sundays or any specified Sundays and in respect either of the whole day or any specified part thereof; and
- (b) providing for the effect of a breach of a condition so imposed, with power to impose different liabilities according as persons are concerned in or have knowledge of the breach.

THE SCHEDULE.

(Section 1.)

ACTS REPEALED.

Year and No. of enactment.	Title of enactment.
8 Edw. VII No. 36	The <i>Sunday Observance Act</i> 1908.
No. 14 of 1955	The <i>Sunday Observance Act</i> 1955.
No. 60 of 1962	The <i>Sunday Observance Act</i> 1962.
No. 23 of 1965	The <i>Sunday Observance Act</i> 1965.

ADOPTION OF CHILDREN.

No. 33 of 1968.

AN ACT to consolidate and amend the law relating to the adoption of children. [24 July 1968.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Adoption of Children Act* 1968. Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

(5) On the making of an order under this section discharging an order for the adoption of a child, but subject to any order made under subsection (4) of this section or any order made by the Supreme Court on an appeal under subsection (6) of this section, and to subsection (2) of section thirty, the rights, privileges, duties, liabilities, and relationships under the law of the State of the child and of all other persons are the same as if the adoption order had not been made, but without prejudice to—

- (a) anything lawfully done;
- (b) the consequences of anything unlawfully done; or
- (c) any proprietary right or interest that became vested in any person,

while the order for the adoption of the child was in force.

(6) A person who is aggrieved by any provision of an order made under subsection (4) of this section may appeal therefrom to the Supreme Court, which has jurisdiction to hear and determine the appeal.

(7) An appeal under subsection (6) of this section shall be instituted, heard, and determined in accordance with the Rules of Court relating to appeals from inferior courts (other than licensing courts).

Supplemental
procedure.

20—(1) On the completion of the hearing of an application for an adoption order the police magistrate constituting the court by which the order is made shall—

- (a) seal in an envelope all applications, reports, and other documents that contain any information as to the identities of the child and of the parents and guardians of the child and cause that envelope to be delivered to the Director; and
- (b) hand to the applicant or applicants an abridged copy of the order made as nearly as is practicable in the prescribed form.

(2) The Director has the custody of any envelope delivered to him pursuant to subsection (1) of this section, and no person may inspect any application, report, or other document contained therein except by leave of a judge or of the Master of the Supreme Court.

(3) No person may inspect a full copy of an adoption order except by leave of a judge or of the Master of the Supreme Court.

Division II—Consents to adoptions.

21—(1) Subject to this Division, a court shall not make an order for the adoption of a child unless consent (not being a consent that has been revoked in accordance with this Act) to the adoption has been given by the appropriate person or persons ascertained in accordance with the succeeding provisions of this section or the court is satisfied that there is no such appropriate person.

Consents of
parents and
guardians
required to
adoptions.
A.C.T. s. 24,
N.S.W., s. 26,
Vic., s. 23,
Q'ld, s. 19.

(2) In the case of a legitimate child who has not previously been adopted, the appropriate persons are every person who is a parent or guardian of the child.

(3) In the case of an illegitimate child who has not previously been adopted, the appropriate person is every person who is the mother or guardian of the child.

(4) In the case of a child who has previously been adopted, the appropriate persons are every person who is an adoptive parent or guardian of the child.

(5) The consent of a person under this section is not required if that person is the applicant, or one of the applicants, for the adoption order.

(6) This section does not apply in the case of a child who has attained the age of twenty-one years before the making of the adoption order.

22—(1) For the purposes of section twenty-one but subject to subsection (2) of this section, a consent to the adoption of a child shall be a consent to the adoption of the child by any person or persons in accordance with the law of the State, and shall have effect accordingly in relation to an application for adoption made by any person or persons in accordance with this Act.

Consents to be general except where in favour of a relative.

A.C.T., s. 25,
N.S.W., s. 27,
Vic., s. 24,
Q'ld., s. 20.

(2) Subsection (1) of this section does not apply in relation to a consent expressed to be a consent to the adoption of a child by a relative of the child, or by two persons one of whom is a parent or relative of the child.

23—(1) A consent to the adoption of a child given for the purposes of this Act by a person other than the child may be revoked by notice in writing served on the Director before—

Revocation of consents.
A.C.T., s. 26,
N.S.W., s. 28,
Vic., s. 26,
Q'ld., s. 22

- (a) the expiration of thirty days after the date on which the instrument of consent was signed; or
- (b) the day on which an order for the adoption of the child is made,

whichever is the earlier, but may not otherwise be revoked.

(2) Service of a notice on the Director under subsection (1) of this section shall be effected by delivering it to him personally or by sending it to him by post at the address of his office.

(3) On receipt of a notice under this section the Director, if it appears to him that the consent was given to the principal officer of a private adoption agency, shall forthwith deliver or send by post to that officer a copy of the notice.

24 A consent for the purposes of the preceding provisions of this Division shall be evidenced by an instrument of consent substantially in accordance with the prescribed form signed by the person giving the consent and attested as prescribed.

Form of consents.
A.C.T., s. 27,
N.S.W., s. 29,
Vic., s. 27,
Q'ld., s. 23.

Consents given under the law of another State or of a Territory.

A.C.T., s. 28,
N.S.W., s. 30,
Vic., s. 25,
Q'ld, s. 21.

25 For the purposes of an application by a person under this Act for an adoption order in respect of a child, a consent to the adoption of the child given by a person in accordance with the law of a State other than this State or of a Territory that would be an effective consent under that law if the application had been made in that State or Territory under that law is an effective consent for the purposes of the application under this Act.

Defective consents.

A.C.T., s. 29,
N.S.W., s. 31,
Vic., s. 28,
Q'ld, s. 24.

26—(1) A court may refuse to make an adoption order in reliance on a consent given or purporting to have been given by a person (other than the child) if it appears to the court that—

- (a) the consent was not given in accordance with this Act;
- (b) the consent was obtained by fraud, duress, or other improper means;
- (c) the instrument of consent has been altered in a material particular without authority; or
- (d) the person giving or purporting to give the consent was not, on the date of the instrument of consent, in a fit condition to give the consent or did not understand the nature of the consent.

(2) A court shall not make an adoption order in reliance on an instrument of consent signed by the mother of the child before the birth of the child.

(3) A court shall not make an adoption order in reliance on an instrument of consent signed by the mother of the child on, or within seven days after, the day on which the child was born unless it is proved that, at the time the instrument was signed, the mother was in a fit condition to give the consent.

(4) For the purposes of subsection (3) of this section, a certificate of a legally-qualified medical practitioner stating that, at the time when an instrument of consent was signed by the mother of a child, the mother was in a fit condition to give the consent is evidence of the matter so certified.

Power of court to dispense with consents.

A.C.T., s. 30,
N.S.W., s. 32,
Vic., s. 29,
Q'ld, s. 25.

27—(1) A court may, by order, dispense with the consent of a person (other than the child) to the adoption of a child where it is satisfied that—

- (a) after reasonable inquiry, that person cannot be found or identified;
- (b) that person is in such a physical or mental condition as not to be capable of properly considering the question whether he should give his consent;
- (c) that person has abandoned, deserted, or persistently neglected or ill-treated the child;
- (d) that person has, for a period of one year or more, failed, without reasonable cause, to discharge the obligations of a parent or guardian, as the case may be, of the child; or

- (e) there are any other special circumstances by reason of which the consent, in the opinion of the court, may properly be dispensed with.

(2) In order to facilitate the making of arrangements with a view to the adoption of a child, a court may, on the application of the Director or of the principal officer of a private adoption agency, make an order under this section in relation to the child before an application for an adoption order in respect of the child has been filed in the court, and an order under this section has effect for the purposes of any application for an adoption order that may subsequently be made in respect of the child.

(3) An order made by virtue of subsection (2) of this section may, on the application of the Director or of the person whose consent was dispensed with, be revoked by a court at any time before the making of an adoption order in respect of the child.

28 Subject to this Division, an order for the adoption of a child who has attained the age of twelve years shall not be made unless the child has consented to the adoption or the court is satisfied that there are special reasons, related to the welfare and interests of the child, why the order should be made notwithstanding that the child has refused to consent to the adoption or his consent has not been sought.

Consent of child.
A.C.T., s. 31.
N.S.W., s. 33.
Vic., s. 30.
Q'ld., s. 36.

29—(1) Subject to this section, where the consent of every person whose consent to the adoption of a child is required under section twenty-one—

Guardianship of child awaiting adoption.

- (a) has been given and is a general consent; or
(b) has been dispensed with by an order made under section twenty-seven,

A.C.T., s. 32.
N.S.W., s. 34.
Vic., s. 31.
Q'ld., s. 27.

the Director is the guardian of the child for all purposes (other than for the purposes of section twenty-one) to the exclusion of all other persons until—

- (c) an adoption order is made in respect of the child;
(d) in the case of a consent so given, the instrument of consent is lawfully revoked;
(e) the child becomes a ward of the State within the meaning of the *Child Welfare Act 1960*; or
(f) a court of competent jurisdiction, by order, makes other provision for the guardianship of the child.

(2) Subsection (1) of this section does not apply to or in relation to a child—

- (a) who is a ward of the State within the meaning of the *Child Welfare Act 1960*; or
(b) unless and until—
(i) the Director has received notice in writing that a general consent to the adoption of the child has been given; and
(ii) the Director has signified his acceptance of the guardianship of the child.

(3) Where the Director has become a guardian of a child under subsection (1) or subsection (4) of this section and has not, within a period of one year thereafter, ceased to be the guardian of the child, he shall make a report in writing to a court concerning the child and the court shall make such order for the care and control of the child as it thinks fit.

(4) Without limiting the generality of subsection (3) of this section, an order under that subsection may declare the child to be a ward of the State within the meaning of the *Child Welfare Act 1960* or that the child shall remain under the guardianship of the Director for a further period of one year.

(5) Where an order under subsection (4) of this section declares a child to be a ward of the State, it has effect, for all purposes, as if it were an order under the *Child Welfare Act 1960* declaring the child to be a ward of the State made by a children's court established under that Act.

(6) The Director may, on such terms and conditions as he thinks fit, place a child of whom he is the guardian under the provisions of subsection (1) of this section in the care of any suitable person who has agreed to have the child in his care.

(7) The fact that the Director is the guardian of a child under this section does not affect the liability of any other person to provide adequate means of support for the child.

Division III—Effect of adoption orders.

General effect
of adoption
orders.

A.C.T., s. 33,
N.S.W., s. 35,
Vic., s. 32,
Q'ld, s. 28.

30—(1) For the purposes of the law of the State, but subject to this Act and to the provisions of any law of the State that expressly distinguishes in any way between adopted children and children other than adopted children, on the making of an adoption order—

- (a) the adopted child becomes a child of the adopter or adopters, and the adopter becomes or adopters become the parent or parents of the child, as if the child had been born to the adopter or adopters in lawful wedlock;
- (b) the adopted child ceases to be a child of any person who was a parent (whether natural or adoptive) of the child before the making of the adoption order, and such a person ceases to be a parent of the child;
- (c) the relationship to one another of all persons (including the adopted child and an adoptive parent or former parent of the adopted child) shall be determined on the basis of the foregoing provisions of this subsection so far as they are relevant;
- (d) an existing appointment of a person, by will or deed, as guardian of the adopted child ceases to have effect; and

- (e) a previous adoption of the child (whether effected under the law of the State or otherwise) ceases to have effect.

(2) Notwithstanding subsection (1) of this section, for the purposes of any law of the State relating to a sexual offence, being a law for the purposes of which the relationship between persons is relevant, an adoption order, or the discharge of an adoption order, does not cause the cessation of any relationship that would have existed if the adoption order, or the discharging order, as the case may be, had not been made, and any such relationship shall be deemed to exist in addition to any relationship that exists by virtue of the application of that subsection in relation to that adoption order or by virtue of the discharge of that adoption order.

31—(1) The provisions of subsection (1) of section thirty have effect in relation to dispositions of property, whether by will or otherwise, and whether made before or after the commencement of this Act, except that—

Effect of orders as regards dispositions of property.

A.C.T., s. 34,
N.S.W., s. 36,
Vic., s. 33,
Q'ld. s. 29.

- (a) those provisions do not affect a disposition of property by a person who, or by persons any of whom, died before the commencement of this Act; and
- (b) those provisions do not affect a disposition of property that has taken effect in possession before the commencement of this Act.

(2) The provisions of subsection (1) of section thirty do not apply in relation to an agreement or instrument (not being a disposition of property) made or executed before the commencement of this Act.

(3) Where—

- (a) before the commencement of this Act, a person made, by an instrument other than a will, a disposition of property;
- (b) the disposition had not taken effect in possession before the commencement of this Act; and
- (c) it did not appear from the instrument that it was the intention of that person to include adopted children as objects of the disposition,

that person may, notwithstanding that the instrument could not, apart from this subsection, be revoked or varied, by a like instrument, vary the first-mentioned instrument to exclude adopted children (whether adopted under this Act or otherwise) from participation in any right, benefit, or privilege under the instrument.

(4) In relation to a disposition of property by a person who, or by persons any of whom, died before the commencement of this Act, an adoption order made under this Act has the same effect as if the repealed Act had continued in force and the adoption order had been made under that Act.

(5) Nothing in section thirty or in this section affects the operation of a provision in a will or other instrument (whether made or coming into operation before or after the commencement of this Act) distinguishing between adopted children and children other than adopted children.

**Names of
adopted child.**
A.C.T., s. 35,
N.S.W., s. 38,
Vic., s. 34,
Q'ld, s. 30.

32—(1) Subject to subsection (2) of this section, on the making of an adoption order, the adopted child shall have as his surname the surname of the adoptive parent or parents and shall have as his forename or forenames such name or names as the court, in the adoption order, approves on the application of the adoptive parent or parents.

(2) Where, before the making of the adoption order, the adopted child has been generally known by a particular surname, the court may, in the adoption order, order that the child shall have that name as his surname.

(3) Nothing in this section prevents the changing of any name of an adopted child, after the making of the adoption order, in accordance with the law of the State.

**Effect of
order on
domicile.**
A.C.T., s. 36,
N.S.W., s. 39,
Vic., s. 35,
Q'ld, s. 31.

33—(1) Subject to this section, on the making of an adoption order, the adopted child acquires the domicile of the adoptive parent or parents at the date of the adoption order and the child's domicile thereafter shall be determined as if the child had been born in lawful wedlock to that parent or those parents.

(2) The domicile acquired, on the making of the order, by the child under subsection (1) of this section shall be deemed to be also the child's domicile of origin.

**Adoption
order not
to affect the
distribution
of property
by trustees
or personal
representa-
tives unless
notice given.**
A.C.T., s. 37,
N.S.W., s. 36,
Vic., s. 36,
Q'ld, s. 32.

34—(1) Notwithstanding any other provision of this Act, trustees or personal representatives may, subject to this section, convey, transfer, or distribute property to or among the persons appearing to be entitled to the property without having ascertained whether or not an adoption has been effected by virtue of which a person is or is not entitled to an interest in the property.

(2) A trustee or personal representative conveying, transferring, or distributing property in the manner referred to in subsection (1) of this section is not liable to a person claiming directly or indirectly by virtue of an adoption unless the trustee or personal representative has notice of the claim before the time of the conveyance, transfer, or distribution.

(3) Nothing in this section prejudices the right of a person to follow property into the hands of another person, other than a purchaser for value, who has received it.

Division IV—Interim orders.

**Making of
interim
orders.**
A.C.T., s. 38,
N.S.W., s. 41,
Vic., s. 37,
Q'ld, s. 33.

35—(1) On an application to a court for an order for the adoption of a child, the court may postpone the determination of the application and make an interim order for the custody of the child in favour of the applicant or applicants.

(2) An interim order may be made subject to such terms and conditions relating to the maintenance, education, and welfare of the child as the court by which the order is made thinks fit.

(3) A court shall not make an interim order in respect of a child in favour of any person or persons unless the court could lawfully make an order for the adoption of that child by that person or those persons.

(4) While an interim order remains in force in respect of a child, the person or persons in whose favour the order is made is or are entitled to the care and custody of the child.

36—(1) Subject to this Division, an interim order remains in force for such period, not exceeding one year, as the court by which the order is made specifies in the order and for such further periods, if any, as the court may from time to time order.

Duration of interim orders.
A.C.T., s. 39,
N.S.W., s. 42,
Vic., s. 38,
Q'ld, s. 34.

(2) An interim order shall not be in force for periods exceeding two years in the aggregate.

37—(1) A court may, at any time, make an order discharging an interim order made under this Division, and may make such order for the care and custody of the child as it thinks fit.

Discharge of interim orders.
A.C.T., s. 40,
N.S.W., s. 43,
Vic., s. 39,
Q'ld, s. 35.

(2) An interim order ceases to have effect on the making of an order for the adoption of the child, whether made in the State or in another State or in a Territory.

PART V.

RECOGNITION OF ADOPTIONS.

38 For the purposes of the laws of the State, the adoption of a person (whether before or after the commencement of this Act) in a State other than this State or in a Territory in accordance with the law of that State or Territory has, so long as it has not been rescinded under the law in force in that State or Territory, the same effect as an adoption order made in the State under this Act, and has no other effect.

Recognition of Australian adoptions.
A.C.T., s. 42,
N.S.W., s. 45,
Vic., s. 41,
Q'ld s. 37.

39—(1) For the purposes of the laws of the State, the adoption of a person (whether before or after the commencement of this Act) in a country outside the Commonwealth and the Territories of the Commonwealth, being an adoption to which this section applies, has, so long as it has not been rescinded under the law of that country, the same effect as an adoption order under this Act.

Recognition of foreign adoptions.
A.C.T., s. 43,
N.S.W., s. 46,
Vic., s. 42,
Q'ld, s. 38.

- (2) This section applies to an adoption in a country if—
- (a) the adoption was effective according to the law of that country;
 - (b) at the time at which the legal steps that resulted in the adoption were commenced, the adopter, or each of the adopters, was resident or domiciled in that country;

- (c) in consequence of the adoption, the adopter or adopters had or would (if the adopted person had been a young child) have had, immediately following the adoption, according to the law of that country, a right superior to that of any natural parent of the adopted person in respect of the custody of the adopted person; and
- (d) under the law of that country the adopter was or adopters were, by virtue of the adoption, placed generally in relation to the adopted person in the position of a parent or of parents.

(3) Notwithstanding the foregoing provisions of this section, a court (including a court dealing with an application under section forty) may refuse to recognize an adoption as being an adoption to which this section applies if it appears to the court that the procedure followed, or the law applied, in connection with the adoption involved a denial of natural justice or did not comply with the requirements of substantial justice.

(4) Where, in proceedings before a court (including proceedings under section forty), the question arises whether an adoption is one to which this section applies, it shall be presumed, unless the contrary appears from the evidence, that the adoption complies with the requirements of subsection (2) of this section and has not been rescinded.

(5) Except as provided in this section, the adoption of a person (whether before or after the commencement of this Act) in a country outside the Commonwealth and the Territories of the Commonwealth does not have effect for the purposes of the laws of the State.

(6) Nothing in this section affects a right that was acquired by, or became vested in, a person before the commencement of this Act.

**Declarations
of validity
of foreign
adoptions.**

A.C.T., s. 44,
N.S.W., s. 47,
Vic., s. 43,
Q'ld, s. 39.

40—(1) A person specified in subsection (2) of this section may apply to the Supreme Court for an order declaring that an adoption of a person was effected (whether before or after the commencement of this Act) under the law of a country outside the Commonwealth and the Territories of the Commonwealth, and that the adoption is one to which section thirty-nine applies, and the Court may hear and determine the application and, if it thinks fit, make an order accordingly.

(2) The persons who may make an application under subsection (1) of this section in relation to an adoption are the adopted child, the adoptive parent or either or both of the adoptive parents, or a person tracing a relationship, by virtue of the adoption, through or to the adopted child.

(3) Where an application is made under this section, the Supreme Court may—

- (a) direct that notice of the application be given to such persons (who may include the Attorney-General) as the Court thinks fit;

- (b) direct that a person be made a party to the application; or
- (c) permit a person having an interest in the matter to intervene in, and become a party to, the proceedings.

(4) Where the Supreme Court makes an order on the application, it may include in the order such particulars in relation to the adoption, the adopted child, and the adoptive parent or parents as the Court finds to be established.

(5) For the purposes of the laws of the State, an order under this section binds the Crown, whether or not notice was given to the Attorney-General, but, except as provided in subsection (6) of this section, does not affect—

- (a) the rights of another person unless that person was—
 - (i) a party to the proceedings for the order or a person claiming through such a party; or
 - (ii) a person to whom notice of the application for the order was given or a person claiming through such a person; or
- (b) an earlier judgment, order, or decree of a court of competent jurisdiction.

(6) In proceedings in a court of the State, being proceedings relating to the rights of a person other than a person referred to in sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) of subsection (5) of this section, the production of a copy of the order, certified by the Registrar of the Supreme Court to be a true copy, is evidence that an adoption was effected in accordance with the particulars contained in the order and that the adoption is one to which section thirty-nine applies.

(7) The Supreme Court has jurisdiction to hear and determine applications under this section, and those applications shall be made, heard, and determined in accordance with the Rules of Court.

PART VI.

OFFENCES.

41 This Part does not apply in respect of acts occurring outside the State but, except to the extent to which the contrary intention appears, does apply in respect of acts done in the State in relation to the adoption of children in, or children adopted in, another State, or in a Territory, or in a country outside the Commonwealth and the Territories of the Commonwealth.

Application of this Part.
A.C.T., s. 45.
N.S.W., s. 43.
Vic., s. 44.
Q'ld, s. 40.

42—(1) A person who was the father or mother or a guardian of a child but has, by reason of an adoption of the child, ceased to be the father or mother or a guardian of the child, and who takes, leads, entices, or decoys the child away, or detains the child, with intent to deprive the adopters of the child of possession of the child, is guilty of an offence against this Act.

Taking away, etc., of adopted child by natural parents.
A.C.T., s. 46.
N.S.W., s. 49.
Vic., s. 45.
Q'ld, s. 41.

Repeal and savings.

Cf. No. 15 of 1965 (A.C.T.) ss. 4, 5. No. 23 of 1965 (N.S.W.), ss. 4 (2), (3), 5. No. 54 of 1964 (Q'ld), s. 5. No. 7147 (Vic.) s. 3.

2—(1) The *Adoption of Children Act 1920* and the *Adoption of Children Act 1960* are repealed.

(2) Notwithstanding the repeal effected by subsection (1) of this section—

- (a) an order of adoption made under the repealed Act and in force immediately before the commencement of this Act continues in force and, subject to this Act, is as valid and effectual as if made under this Act and may be discharged in accordance with this Act;
- (b) an application for an order of adoption under the repealed Act that was pending immediately before the commencement of this Act may be continued and dealt with, and proceedings on or incidental to such an application may be instituted, continued, and dealt with under the provisions of the repealed Act as if this Act had not commenced, but an adoption order made in pursuance of this paragraph has effect as if it were made under this Act;
- (c) a consent in writing to the adoption of a child given by a person before the commencement of this Act in accordance with the repealed Act shall, for the purposes of proceedings under this Act for the adoption of the child, be deemed to be a sufficient consent by the person giving the consent; and
- (d) subject to subsection (4) of this section, the provisions of section thirty and of subsections (1), (2), (3), and (5) of section thirty-one of this Act apply in relation to an order of adoption made under the repealed Act as if this Act had been in force when the order was made and the order were an adoption order made under this Act.

(3) Where a consent referred to in subsection (2) of this section—

- (a) is not a consent to the adoption of the child by a specified person or by specified persons, the consent shall, for the purposes of this Act, be deemed to be a general consent; or
- (b) is a consent to the adoption of the child by a specified person or by specified persons, that person or those persons shall, for the purposes of this Act, be deemed to be a relative, or to be relatives, of the child.

(4) In relation to a disposition of property by will or otherwise by a person who, or by persons any of whom, died before the commencement of this Act, an order of adoption to which paragraph (d) of subsection (2) of this section relates has the same effect as if the repealed Act had continued in force.

(5) The provisions of subsections (2), (3), and (4) of this section are in addition to, and not in derogation of, the provisions of the *Acts Interpretation Act 1931*.

(2) A 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 subsection (1) of this section is guilty of an offence against this Act.

Payments in consideration of adoptions, etc.,
A.C.T., s. 47,
N.S.W., s. 50,
Vic., s. 47,
Q'ld., s. 43.

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

- (a) the adoption or proposed adoption of the 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 control of the child with a view to the adoption of the child; or
- (d) the conduct of negotiations or the making of arrangements with a view to the adoption of the child,

is guilty of an offence against this Act.

(2) Subsection (1) of this section does not apply to or in relation to any of the following payments or rewards in connection with an adoption or proposed adoption under this Act, namely:—

- (a) A payment of legal expenses;
- (b) A payment made by the adopters, with the approval in writing of the Director or with the approval of a court, in respect of the hospital and medical expenses reasonably incurred in connection 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; and
- (c) Any other payment or reward authorized by the Director or by a court.

(3) Subsection (1) of this section does not apply to or in relation to a payment or reward in connection with an adoption or proposed adoption under the law of a State other than this State or of a Territory if the making of the payment or the giving of the reward, or the agreeing to make the payment or give the reward, would have been lawful if it had taken place in that State or Territory.

Unauthorized arrangements for adoption.
A.C.T., s. 48,
N.S.W., s. 51,
Vic., s. 50,
Q'ld., s. 46.

44—(1) A person (other than the Director, or a person acting on behalf of the Director, or the principal officer of a private adoption agency, or a person authorized in writing by the principal officer of a private adoption agency) who—

- (a) conducts negotiations or makes arrangements with another person with a view to the adoption of a child by that other person; or
- (b) except in accordance with arrangements made by or on behalf of the Director or a private adoption agency, transfers, or causes to be transferred,

the possession or control of a child to another person with a view to the adoption of the child by that other person,

is guilty of an offence against this Act.

(2) Subsection (1) of this section does not apply in relation to anything done by or on behalf of a parent, guardian, or relative of a child with a view to the adoption of the child by a relative of the child, or by two persons one of whom is a parent or relative of the child.

45—(1) Subject to this section, a 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—

Restriction on advertising, etc.
A.C.T., s. 49,
N.S.W., s. 52,
Vic., s. 48,
Q'ld, s. 44.

- (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,

is guilty of an offence against this Act.

(2) Subsection (1) of this section does not apply in relation to an advertisement, news item, or other matter that has been approved by the Director.

46—(1) Subject to this section, a person who publishes, or causes to be published, in a newspaper or periodical, or by means of broadcasting or television, in relation to an application under this Act or under a law of a State other than this State or of a Territory for the adoption of a child or the proceedings on such an application, the name of an applicant, or of the child, or of the father or mother or a guardian of the child, or any matter reasonably likely to enable any of those persons to be identified, is guilty of an offence against this Act.

Restriction on publication of identity of parties.
A.C.T., s. 50,
N.S.W., s. 53,
Vic., s. 49,
Q'ld, s. 45.

(2) This section does not apply in relation to the publication of any matter with the authority of the court to which the application was made.

47 A person who, whether orally or in writing, wilfully makes a false statement for the purposes of or in connection with a proposed adoption or any other matter under this Act is guilty of an offence against this Act.

False statement in application, etc.
A.C.T., s. 51,
N.S.W., s. 54,
Vic., s. 51,
Q'ld, s. 47.

48 A 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 a State other than this State or of a Territory is guilty of an offence against this Act.

Personation of person whose consent to an adoption is required.
A.C.T., s. 52,
N.S.W., s. 55,
Vic., s. 52,
Q'ld, s. 48.

Presenting
forged
consent.

A.C.T., s. 53,
N.S.W., s. 56,
Vic., s. 53.
Q'ld, s. 49.

49 A person who presents, or causes to be presented, to a court in connection with an application for an order for the adoption of a child under this Act a document purporting to be an instrument of consent to the adoption signed by a person whose consent to the adoption is required by this Act if the signature to the document is or was, to the knowledge of the first-mentioned person, forged or obtained by fraud or duress, is guilty of an offence against this Act.

Undue
influence.

N.S.W., s. 37.

50 A person who uses or threatens to use any force or restraint, or does or threatens to do any injury, or causes or threatens to cause any detriment of any kind to a parent or guardian of a child with a view—

(a) to inducing that parent or guardian to offer or refrain from offering the child for adoption under this Act; or

(b) to influencing the parent or guardian in the expression of any wishes contained in an instrument of consent to the adoption of a child,

is guilty of an offence against this Act.

Improper
witnessing
of consent.

A.C.T., s. 58,
N.S.W., s. 58,
Vic., s. 54,
Q'ld, s. 50.

51 A person who subscribes his name as a witness to the signature of a person to an instrument of consent to the adoption of a child—

(a) without being satisfied that the person signing the instrument is a parent or guardian of the child;

(b) without taking such steps as are prescribed to satisfy himself that the person signing the instrument understands the effect of the consent; and

(c) without being satisfied that the instrument bears the date on which it is signed by the person giving the consent,

is guilty of an offence against this Act.

Authority
to prosecute.

A.C.T., s. 55,
N.S.W., s. 59,
Vic., s. 56,
Q'ld, s. 51.

52 Proceedings for an offence against this Act shall not be commenced except by the Attorney-General or with the written consent of the Attorney-General.

Time for
instituting
proceedings.

N.S.W., s. 60
(3), (4).

53—(1) A prosecution for an offence against this Act may be instituted at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the complainant, whichever is the later time.

(2) Proof of the time when the commission of an offence came to the knowledge of the complainant lies on the complainant.

Penalty.

N.S.W., s. 60
(1).

54 A person who is guilty of an offence against this Act is liable to a fine of four hundred dollars or to imprisonment for six months.

PART VII.

MISCELLANEOUS.

55 As soon as is reasonably practicable after the making of an adoption order or of an order for the discharge of an adoption order, the police magistrate constituting the court by which the order was made shall cause a memorandum in accordance with the prescribed form to be sent to the Registrar-General.

Memorandum relating to the making of an adoption order to be sent to the Registrar-General.

A.C.T., s. 56.

56 Where under this Act an adoption order or an order for the discharge of an adoption order has been made, and the Registrar-General has reason to believe that the birth of the child is registered in a State other than this State or in a Territory, he shall, as soon as is reasonably practicable, cause a memorandum, in accordance with the prescribed form, of the adoption order, or a copy of the discharging order, as the case may be, certified in writing by him to be a true memorandum or copy, to be sent to such officer of that State or Territory having functions in relation to the registration of births as is prescribed.

Sending of memoranda of orders to other States and to Territories.
Q'ld, s. 56.

57 An application to a court 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 permitted by the court, be excluded during the hearing of such an application.

Hearings to be in camera.
A.C.T., s. 59,
N.S.W., s. 64,
Vic., s. 60,
Q'ld, s. 58.

58 A person who—

- (a) conducts any arrangement for or relating to the adoption of a child in respect of whose adoption a general consent has been given;
- (b) signs, or files in a court, any document relating to the hearing of an application for an adoption order; or
- (c) appears before a court in connection with the hearing of such an application,

Identities of certain persons not to be revealed.

shall, so far as is practicable, take such steps as are necessary to ensure that the identities of the child and his parents are not revealed to the adopters and that the identities of the adopters are not revealed to the parents of the child.

59 A report to a court under section fifteen shall not, except as the court otherwise orders, be made available to any person (including a party to the proceedings for the purposes of which the report is made).

Contents of reports not to be disclosed.
A.C.T., s. 60,
N.S.W., s. 66,
Vic., s. 61.

60 Except as provided by the regulations, the records of any proceedings under this Act shall not be open to inspection.

Restriction on inspection of records.
A.C.T., s. 61,
N.S.W., s. 67,
Vic., s. 62,
Q'ld, s. 59.

Power of Director, etc., to appear at hearings.

A.C.T., s. 62,
N.S.W., s. 65,
Vic., s. 63.

61 The Director, or a person appointed for the purpose by the Director, may appear at the hearing of the proceedings on an application for an adoption order, and may address the court before which the proceedings are heard, and call, examine, and cross-examine witnesses.

Delegation.

N.S.W., s. 69.

62—(1) The Director may, by writing under his hand, delegate to any specified officer of the Department of Social Welfare all or any of the powers, authorities, duties, and functions conferred or imposed on him by this Act except this power of delegation.

(2) No person is concerned to see or inquire whether any act, matter, or thing done or performed by any officer of the Department of Social Welfare, when purporting to act as a delegate of the Director, is or is not authorized by the delegation.

Matters admissible in evidence.

N.S.W., s. 65.

63 On the hearing by a court of any proceedings on an application for an adoption order or the discharge of an adoption order, the court may act on any statement, document, information, or matter that, in the opinion of the court, may assist it to deal with the matter of the proceedings, whether or not the statement, document, information, or matter would otherwise be admissible in evidence.

Averments as to identity of child.

64—(1) For the purposes of this Act, where an application for an adoption order is made, on behalf of the applicant or applicants, by the Director, an averment by—

(a) the Director; or

(b) an officer to whom a delegation under section sixty-two has been made,

as to the identity of the child is sufficient evidence of that identity.

(2) For the purposes of this Act, where an application for an adoption order is made, on behalf of the applicant or applicants, by the principal officer of a private adoption agency, an averment by the principal officer as to the identity of the child to whom the application relates is sufficient evidence of that identity.

Proof of adoptions.

A.C.T., s. 63.

65 In proceedings in any court of the State, the court may receive as evidence of the matters stated in, or appearing from, the document, a document purporting to be either the original or a certified copy or certified extract of an order effecting an adoption (whether in Australia or elsewhere), or an official certificate, entry, or record of an adoption (whether effected in Australia or elsewhere).

Judicial notice of certain signatures.

A.C.T., s. 64,
N.S.W., s. 65.

66—(1) 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 Director or the corresponding office in a State other than this State or in a Territory appearing on a document and of the fact that, at the time the document was signed by him, he held, or was acting in, that office.

(2) In proceedings under this Act, judicial notice shall be taken of the signature of a person to whom any of the powers, authorities, duties, or functions of the Director (whether under this Act or otherwise) have been delegated.

67 The Governor may make regulations for the purposes of this Act and, in particular and without limiting the generality of this section, may make regulations for or in relation to—

Regulations.
A.C.T., s. 14,
65,
N.S.W., s. 78,
Vic., s. 67,
Q'ld., s. 65.

- (a) the fees to cover administrative and other expenses payable to the Director or to a private adoption agency in a case where the Director or the principal officer of a private adoption agency makes, on behalf of the applicant or applicants, an application under this Act, and the waiving of any such fees;
- (b) the conduct of private adoption agencies and the conditions and requirements to be observed, and the facilities to be provided, by private adoption agencies (including requirements with respect to the qualifications and experience of persons acting for or on behalf of private adoption agencies);
- (c) the keeping by the Director of lists of persons approved by him as fit and proper persons to adopt children and the order in which persons whose names are included in such a list may be selected to be applicants for adoption orders;
- (d) notifying the Director of the giving of a general consent to the adoption of a child;
- (e) the signification by the Director of his acceptance, for the purposes of section twenty-nine, of the guardianship of a child in respect of whose adoption a general consent has been given by the appropriate person or persons (ascertained as provided in section twenty-two);
- (f) the forms and mode of procedure to be used in exercising the jurisdiction conferred on a court by this Act;
- (g) the making to the Director and to private adoption agencies of applications by persons who desire to be approved as fit and proper persons to adopt children, and the investigation and determination, by the Director and by the principal officers of private adoption agencies, of applications so made;
- (h) the placing of children in the care and custody of persons by whom the children are proposed to be adopted;
- (i) the form of, and the manner of execution and attestation of, instruments of consent to the adoption of children, and the duties of persons executing and witnessing those instruments;
- (j) the duties and powers of the Director and principal

officers of private adoption agencies in respect of the wishes of persons by whom instruments of consent to the adoption of children are executed as to the religious upbringing or convictions of those children;

- (k) applications for adoption orders being made or dealt with in such a way that the identities of the children proposed to be adopted pursuant to those applications are not to be disclosed to the applicants for those orders and that the identity or identities of the adopter or adopters is or are not disclosed to the parents or guardians of those children, except where all parties to those applications otherwise agree; and
- (l) the penalties (not exceeding one hundred dollars) to which persons guilty of offences against the regulations are to be liable.

DISPOSAL OF UNCOLLECTED GOODS.

No. 34 of 1968.

AN ACT to authorize the disposal of goods the subject of a bailment that have not been redelivered; and for purposes connected therewith.

[24 July 1968.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Disposal of Uncollected Goods Act 1968*.

(2) This Act shall commence on a date to be fixed by proclamation.

Short title
and
commence-
ment.

- 3—(1)** In this Act, unless the contrary intention appears—
- “adoption order” means an order for the adoption of a child under this Act;
- “charitable organization” means an organization, whether incorporated or unincorporated, that is formed or carried on primarily or principally for religious, charitable, benevolent, or philanthropic purposes, but does not include—
- (a) an organization that is formed or carried on for the purpose of trading or securing a pecuniary profit to its members; or
 - (b) a public hospital or a private medical establishment (within the meaning of the *Hospitals Act 1918*);
- “child” means a person who has not attained the age of twenty-one years, or a person who has attained that age in respect of whom an adoption order is sought or has been made;
- “country” includes part of a country;
- “court” means a police magistrate having jurisdiction under this Act by virtue of section four;
- “Director” means the Director of Social Welfare;
- “disposition of property” includes the grant or exercise of a power of appointment in respect of property;
- “father”, used in relation to a child who is illegitimate, means the putative father;
- “general consent” means a consent referred to in subsection (1) of section twenty-two;
- “guardian”, used in relation to a child, includes—
- (a) a person having the custody of the child under an order of a court of competent jurisdiction; and
 - (b) a person who is or is deemed to be the guardian of the child, to the exclusion of, or in addition to, any parent or other guardian, under a law of this State or any other State or under a law of the Commonwealth or of a Territory;
- “interim order” means an interim order under Division IV of Part IV;
- “principal officer”, in relation to a private adoption agency, means the person specified as the principal officer in the application by virtue of which the agency was approved under this Act, or the person specified as the principal officer in the latest notice given to the Director by the agency under subsection (2) of section nine;
- “relative”, used in relation to a child, means a grandparent, brother, sister, uncle, or aunt of the child, whether the relationship is of the whole blood or half-blood or by affinity, and notwithstanding that the relationship is traced through, or to, an illegitimate person or depends on the adoption of any person;

Interpretation.
A.C.T., s. 6.
N.S.W., s. 6.
Vic., s. 4.
Q'ld., s. 6.

“repealed Act” means the *Adoption of Children Act 1920*;

“Territory” means a Territory of the Commonwealth, and includes a Territory that is governed by the Commonwealth under a trusteeship agreement.

(2) For the purposes of this Act an application for an adoption order and any other document relating to the hearing of such an application that is required or permitted by or under this Act to be filed in a court—

- (a) shall be delivered or sent by post to a clerk of petty sessions; and
- (b) shall be deemed to be filed in the court on the date on which it is received by the clerk.

PART II.

JURISDICTION.

Jurisdiction under this Act exercisable by police magistrates.

A.C.T., s. 7.
N.S.W., s. 7.
Vic., s. 5.

4 The jurisdiction conferred on a court by this Act is exercisable by any police magistrate sitting alone.

Cases in which jurisdiction may be exercised.

A.C.T., s. 8.
N.S.W., s. 8.
Vic., s. 6.
Q'ld., s. 8.

5—(1) A court shall not make an order for the adoption of a child unless, at the time of the filing in the court of the application for the order—

- (a) the applicant, or (in the case of joint applicants) each of the applicants, was resident or domiciled in the State; and
- (b) the child was present in the State.

(2) For the purposes of this section, where a court is satisfied that an applicant was resident or domiciled in the State, or that the child was present in the State, on a date within twenty-one days before the date on which an application was filed in the court, the court may, in the absence of evidence to the contrary, presume that the applicant was resident or domiciled in the State, or that the child was present in the State, as the case may be, at the time of the filing in the court of the application.

Rules of private international law not to apply.

A.C.T., s. 9.
N.S.W., s. 9.
Vic., s. 7.
Q'ld., s. 9.

6 The jurisdiction of a court to make an adoption order is not dependent on any fact or circumstance not expressly specified in this Act.

PART III.

PRIVATE ADOPTION AGENCIES.

Application for approval of adoption agency.

A.C.T., s. 10.
N.S.W., s. 10.
Vic., s. 18.

7 A charitable organization carrying on, or desiring to carry on, the activity of conducting negotiations and making arrangements with a view to the adoption of children may apply in writing to the Minister for approval as a private adoption agency.

8—(1) The Minister may, in his discretion, grant or refuse an application under section seven.

Power of Minister to grant or refuse applications under section 7.

(2) Without limiting the generality of subsection (1) of this section, the Minister shall refuse an application under section seven if it appears to him that the applicant is not a charitable organization or is not suited to carrying on the activity of conducting negotiations and making arrangements with a view to the adoption of children, having regard to all relevant considerations, including the qualifications, experience, character, and number of the persons taking part, or proposing to take part, in the management or control of the organization, or engaged or proposed to be engaged, on behalf of the organization, in the conducting of those negotiations or the making of those arrangements.

A.C.T., s. 11.
N.S.W., s. 11.
Vic., s. 19.

(3) Where the Minister approves a private adoption agency pursuant to this Part, the approval—

- (a) shall be subject to such conditions and requirements as may be prescribed; and
- (b) may be granted subject to such additional conditions and requirements as the Minister, in a particular case, thinks fit and specifies by notice in writing given to the principal officer of the agency.

9—(1) Before making an application under section seven, a charitable organization shall appoint a person resident in the State to be its principal officer in the State for the purposes of this Act in the event of the granting of the application.

Principal officer of private adoption agency.

A.C.T., s. 12.
N.S.W., s. 12.

(2) If an application under section seven is granted, the private adoption agency shall, within seven days after the occurrence of a vacancy in the office of its principal officer, appoint a person resident in the State to fill the vacancy, either temporarily or permanently, and shall give notice in writing to the Director of the appointment.

(3) An application under section seven shall specify the name of the principal officer, and the address of the principal office in the State, of the charitable organization making the application.

(4) For the purposes of subsection (2) of this section, the office of principal officer shall be deemed to become vacant if the person holding the office ceases to be resident in the State.

(5) Anything done by the principal officer of a private adoption agency, or with his approval, shall, for the purposes of this Act but without prejudice to any personal liability of the principal officer, be deemed to be done by the private adoption agency.

Revocation
or suspension
of approval
of private
adoption
agency.

A.C.T., s. 13,
N.S.W., s. 13,
Vic., s. 20.

10 The Minister may, at any time, by notice in writing served personally or by post by means of the certified mail service on the principal officer of a private adoption agency, revoke or suspend the approval of the private adoption agency under this Part—

- (a) at the request of the agency;
- (b) on the ground that the agency is no longer a suitable organization to carry on the activity of conducting negotiations and making arrangements with a view to the adoption of children, having regard to all relevant considerations, including the matters referred to in subsection (2) of section eight; or
- (c) on the ground that the agency has contravened, or failed to comply with, a provision of this Act that is applicable to it.

PART IV.

ADOPTIONS.

Division I—General.

Welfare and
interests of
child to be
paramount.

A.C.T., s. 15,
N.S.W., s. 17,
Vic., s. 8,
Q'ld, s. 10.

11 For all purposes of this Part, the welfare and interests of the child concerned shall be regarded as the paramount consideration.

Who may be
adopted.

A.C.T., s. 16,
N.S.W., s. 18,
Vic., s. 9,
Q'ld, s. 11.

12—(1) Subject to this Act, a court may, on application, make an order for the adoption of a child who—

- (a) had not attained the age of twenty-one years before the date on which the application was filed in the court; or
- (b) has been brought up, maintained, and educated by the applicant or applicants, or by the applicant and a deceased spouse of the applicant, as if he were their child.

(2) A court shall not make an order for the adoption of a child who is, or has been, married.

(3) Except where the applicant is a person, or the applicants are persons, in whose favour a consent referred to in subsection (2) of section twenty-two has been given, a court shall not make an adoption order unless the application is made on behalf of the applicant or applicants by the Director or by the principal officer of a private adoption agency.

(4) An application for an adoption order by a person, or by persons, in whose favour a consent referred to in subsection (2) of section twenty-two has been given may be made on behalf of the applicant or applicants by the Director.

(5) An order may be made under this Act for the adoption of a child notwithstanding that the child has, whether before or after the commencement of this Act, and whether in the State or elsewhere, previously been adopted.

13—(1) Except as provided by subsection (2) of this section, an adoption order shall not be made otherwise than in favour of a husband and wife jointly.

Persons in whose favour adoption orders may be made.

(2) Subject to subsection (3) of this section, where a court is satisfied that exceptional circumstances make it desirable to do so, the court may make an adoption order in favour of one person.

A.C.T., s. 17,
N.S.W., s. 19,
Vic., s. 10,
Q'ld., s. 12.

(3) A court shall not make an adoption order in favour of one person if that person is married and is not living separately and apart from his or her spouse.

(4) A court may make an adoption order in favour of a husband and wife jointly notwithstanding that one of them is a natural parent of the child.

14 A court shall not make an order for the adoption of a child in favour of a person who or persons either of whom—

Age of adopters.

- (a) has not attained the age of twenty-one years; or
- (b) being a male person, is less than eighteen years older than the child, or, being a female person, is less than sixteen years older than the child,

A.C.T., s. 18,
N.S.W., s. 20,
Vic., s. 11,
Q'ld., s. 13.

unless the applicant, or at least one of the applicants, is a natural parent of the child or the court considers that in all the circumstances the making of the order is justified.

15—(1) A court shall not make an order for the adoption of a child unless—

Court to be satisfied as to certain matters.

- (a) the Director has made a report in writing to the court concerning the adoption; and
- (b) where the application for the order is made by the principal officer of a private adoption agency, that officer has also made such a report,

A.C.T., s. 19,
N.S.W., s. 21,
Vic., s. 12,
Q'ld., s. 14.

and the court, after considering that report or those reports, as the case may be, and any other evidence before the court is satisfied that—

- (c) the applicant, or (in the case of joint applicants) each of the applicants, is a person of good repute and is a fit and proper person to fulfil the responsibilities of a parent of a child;
- (d) the applicant, or (in the case of joint applicants) each of the applicants, is a suitable person to adopt the child, having regard to all relevant considerations, including the age, state of health, education (if any), and religious upbringing or convictions (if any) of the child and of the applicant or applicants, and any wishes that have been

expressed by a parent or guardian of the child, in an instrument of consent to the adoption of the child, with respect to the religious upbringing of the child; and

- (e) the welfare and interests of the child will be promoted by the adoption.

(2) Subsection (1) of this section does not apply in relation to an order, in accordance with subsection (1) of section twelve, for the adoption of a child who has attained the age of twenty-one years before the date on which the application for the making of the order is filed in the court, but the court shall not make an order in such a case unless it is satisfied—

- (a) that the applicant, or (in the case of joint applicants) each of the applicants, is a person of good repute; and
 (b) that in all the circumstances it is desirable that the child should be adopted.

(3) Except in the case of a child to whom paragraph (a) or paragraph (b) of subsection (4) of this section relates, a court shall not make an order for the adoption of a child unless the court has received a report in the prescribed form as to the physical and mental condition of the child signed by a legally-qualified medical practitioner who examined the child not more than thirty days before the date on which the application for the order was filed in the court.

(4) Subsection (3) of this section does not apply in relation to the proposed adoption of a child—

- (a) who has attained the age of twenty-one years; or
 (b) by a person who is a relative of the child or by two persons of whom one is a parent or relative of the child.

Notice of application for adoption order.

A.C.T., s. 20,
 N.S.W., s. 22,
 Vic., s. 13.

16—(1) A court shall not make an order for the adoption of a child unless not less than fourteen days' notice of the application for the order has been given by the applicant or applicants—

- (a) to each person whose consent to the adoption of the child is required under section twenty-one but whose consent has not been given; and
 (b) to each person (not being a person whose consent is so required) with whom the child resides or who has the care or custody of the child.

(2) A notice referred to in subsection (1) of this section shall not specify the name or names of the applicant or applicants or identify the applicant or applicants.

(3) A court may, on application in writing, dispense with the giving of a notice under subsection (1) of this section.

(4) Where it appears to a court to be necessary in the interests of justice to do so, the court may direct that notice of an application for an adoption order be given to any person.

17 Where an application is made to a court for an order for the adoption of a child, the court may permit such persons as it thinks fit to be joined as parties to the proceedings for the purpose of opposing the application or for the purpose of opposing an application to dispense with the consent of a person.

Parties.
A.C.T., s. 21,
N.S.W., s. 23,
Vic., s. 14.

18—(1) Where a court refuses an application for an order for the adoption of a child, the court may make such order for the care and control of the child as it thinks fit.

Care of child
after refusal
of application.
A.C.T., s. 22,
N.S.W., s. 24,
Vic., s. 15.

(2) Without limiting the generality of subsection (1) of this section, an order under that subsection may declare the child to be a ward of the State within the meaning of the *Child Welfare Act 1960* or that the child shall remain under the guardianship of the Director for a further period of one year.

(3) Where an order under subsection (1) of this section declares a child to be a ward of the State, it has effect, for all purposes, as if it were an order made under the *Child Welfare Act 1960* declaring the child to be a ward of the State made by a children's court established under that Act.

19—(1) The Director, with the consent of the Attorney-General, may apply to a court for an order discharging an order for the adoption of a child made under this Act or under the repealed Act and the court may make such an order if it is satisfied that—

Discharge of
adoption
orders.
A.C.T., s. 23,
N.S.W., s. 25,
Vic., s. 16,
Q'ld s. 16.

(a) the order for the adoption of the child, or any consent for the purposes of that order, was obtained by fraud, duress, or other improper means; or

(b) that there is some other exceptional reason why, subject to the welfare and interests of the child, that order should be discharged.

(2) A court shall not make an order under this section if it appears to the court that the making of the order would be prejudicial to the welfare and interests of the child.

(3) Where a court makes an order discharging an adoption order that was made in reliance on a general consent, then, unless the court otherwise orders, the general consent remains in operation for the purposes of a further application for the adoption of the child.

(4) Where a court makes an order under this section, it may, at the same time or subsequently, make such consequential or ancillary orders as it thinks necessary in the interests of justice or the welfare and interests of the child, including orders relating to—

(a) the name of the child;

(b) the ownership of property;

(c) the custody or guardianship of the child; or

(d) the domicile (including the domicile of origin) of the child.

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