

(a) in respect of each adoption negotiated or arranged by or on behalf of the Director; or

(b) furnished to the Director under subsection (2).

(2) A private adoption agency shall—

(a) maintain records in respect of each adoption negotiated or arranged by it; and

(b) as soon as practicable after an adoption order has been made following such negotiations or arrangements, furnish to the Director the prescribed particulars concerning the persons associated with the application for the order.

(3) For the purposes of subsection (2), the associated persons are the adopted child, an adoptive parent, a birth parent and the person who made the report referred to in paragraph 19 (1) (a).

(4) The regulations may make provision for the length of time for which, and the manner in which, records are to be maintained pursuant to subsection (1) or (2).

### **Provision of information**

**62. (1) Where—**

(a) the Director receives an application for information under this Part; and

(b) the Director is satisfied that the applicant is a person who, in accordance with this Part, is entitled to access to, and to apply for, that information;

the Director shall—

(c) if that information is contained in records in the possession or under the control of the Director—give that information to the applicant;

(d) if the information is, to the Director's knowledge, contained in records in the possession or under the control of a relevant authority—

(i) request the authority to—

(A) give the information to the Director; or

(B) if the application so requests—give the information to the applicant; and

(ii) if the information is received by the Director from the authority—give that information to the applicant; or

- (e) if the information is not contained in any records referred to in paragraph (c) or (d)—
  - (i) make such enquiries as are reasonable in the circumstances of the case in an endeavour to obtain the information; and
  - (ii) upon obtaining the information—give it to the applicant.

(2) Subsection (1) shall not be taken to require the Director to give information, to make enquiries or requests or to do any other act unless any fee or charge payable under a law of the Territory, a State or another Territory for searching for or furnishing information of that kind has been paid.

(3) Where—

- (a) the Registrar of Births, Deaths and Marriages receives an application for information under this Part; and
- (b) the Registrar is satisfied that the applicant is a person who, in accordance with this Part, is entitled to access to, and to apply for, that information;

the Registrar shall, upon payment of the appropriate fee determined under section 62 of the *Registration of Births, Deaths and Marriages Act 1963*, cause a search to be made in the register of births and issue to the applicant—

- (c) a copy of, or an extract from, the relevant entry; or
- (d) a notification of the result of the search;

as the case requires.

### ***Division 2—Non-identifying information***

#### **Right of access**

**63.** Subject to this Division, an associated person is entitled to access to, and to apply for information, other than identifying information, concerning an adoption.

#### **Protection of privacy**

**64. (1)** A person is not, by virtue of this Division, entitled to personal information relating to another person (whether alive or dead).

(2) In subsection (1)—

“personal information” means information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Medical information**

**65.** Where, under this Division, information concerning the medical or psychiatric condition of an applicant for that information or of a birth parent, birth relative or child of the applicant, may be disclosed, the relevant authority may, if the authority considers that the disclosure might be prejudicial to the physical or mental health or well-being of the applicant, refuse to disclose the information to the applicant personally and instead may disclose it (without identifying a person other than the applicant) to a medical practitioner nominated by the applicant and approved by the authority.

***Division 3—Identifying information***

**Right of access**

**66.** Subject to this Division, an associated person is entitled to access to, and to apply for, identifying information concerning an adoption.

**Recipient of application**

**67. (1)** An application under section 66 shall be made to—

- (a) if the information sought consists of a copy of, or an extract from, an entry in the register of births—the Registrar of Births, Deaths and Marriages; and
- (b) in any other case—the Director.

**(2)** On receiving an application pursuant to subsection (1), the Registrar of Births, Deaths and Marriages shall notify the Director in writing accordingly.

**Restriction on entitlement to apply**

**68. (1)** An adopted child who has not attained the age of 18 years is not entitled to identifying information unless approval in writing has been obtained from each adoptive parent and each birth parent.

**(2)** Subsection (1) does not apply if—

- (a) an adoptive parent is a person referred to in subsection 18 (2); and
- (b) the information sought consists of a copy of, or an extract from, an entry in the register of births.

**(3)** A birth parent of an adopted child who has not attained the age of 18 years is not entitled to identifying information unless approval in writing has been obtained from each adoptive parent.

**(4)** A birth relative of an adopted child is not entitled to identifying information unless—

- (a) if the information sought consists of a copy of, or an extract from, an entry in the register of births relating to the period preceding the person's adoption—the applicant can demonstrate that he or she knows the names of each birth parent of the child who is named in the register; and
- (b) if the adopted child has not attained the age of 18 years—approval in writing has been obtained from each adoptive parent.

(5) An adoptive parent of an adopted child who has not attained the age of 18 years is not entitled to identifying information unless approval in writing has been obtained from each birth parent.

(6) Notwithstanding the preceding subsections, the approval of a person is not required for the purposes of this Division if the Director or the Registrar of Births, Deaths and Marriages, as the case requires, is satisfied that—

- (a) the person is dead; or
- (b) the whereabouts of the person are unknown and could not with reasonable enquiries be ascertained.

(7) The Director may withhold information from a birth parent where he or she believes, on reasonable grounds, that the child has been subjected to sexual or physical abuse from that birth parent.

### **Assistance in obtaining approval**

69. Upon receiving—

- (a) an application for identifying information; or
- (b) a notification under subsection 67 (2) in relation to such an application;

the Director shall, at the request of the applicant, on his or her behalf seek to obtain from each person whose approval is required approval in writing to the information being provided.

### **Objection to contact**

70. (1) Objection may be made by—

- (a) an adopted person who has attained the age of 17 years and 6 months;
- (b) an adoptive parent;
- (c) a birth relative who has attained the age of 18 years;
- (d) an adoptive relative who has attained the age of 18 years;
- (e) a child or other descendant of an adopted person, being a child or other descendant, who has attained the age of 18 years; or

(f) a birth parent;

to contact being made with him or her by a specified person or a specified class of persons referred to in the objection (being a person who is or a class of persons each of whom is an associated person).

(2) An objection shall be made by notice in writing lodged with the Director and shall continue in force until revoked by the person by notice in writing lodged with the Director.

(3) Where the Director receives an objection or revocation he or she shall enter the particulars in the Contact Veto Register.

(4) An objection made by a person who is less than 18 years of age takes effect when the person attains that age.

### **Contact veto by a person other than an adopted person**

71. (1) Where a person, other than an adopted person, has not attained the age of 18 years but would be entitled to lodge a contact veto on attaining 18 years, a parent may lodge a contact veto on his or her behalf.

(2) A contact veto lodged under subsection (1) remains in force until—

(a) revoked by the parent who lodged it; or

(b) the person on whose behalf the veto was lodged attains the age of 18 years.

(3) A person, other than an adopted person, who is 17 years and 6 months of age may lodge a contact veto.

(4) A contact veto lodged under subsection (3) comes into effect when the person who lodged it attains the age of 18 years.

### **Counselling services**

72. (1) The Director shall not supply a document or information to an applicant specified in, or included in a class of persons specified in, a contact veto under this Part unless the applicant has attended an interview with an approved counsellor.

(2) Where the Director receives an application under this Part from an applicant referred to in subsection (1), he or she shall inform the applicant in writing of the place or places at which counselling services are available and that information cannot be supplied under this Part unless the applicant has attended an interview with an approved counsellor.

(3) This section does not apply if the Director is satisfied that the adopted person and another person referred to in the original birth certificate relating to the adopted person have already exchanged information which may identify that birth parent or a birth relative of the adopted person.

(4) The Director may, by notice published in the *Gazette*, approve a person as a counsellor for the purposes of this Act.

(5) The Director shall not approve a person as a counsellor under subsection (4) unless the person has, in the opinion of the Director, such qualifications and experience as are appropriate for a counsellor for the purposes of this Act.

#### **Declaration that contact shall not be attempted**

73. Where a person specified in, or included in a class of persons specified in, a contact veto requests information under section 67 (1) and an objection to contact is in force, the Director shall not divulge the information unless that person—

- (a) has attended a counselling service pursuant to section 72; and
- (b) signs a declaration that he or she will not—
  - (i) contact or attempt to contact the person who lodged the objection;
  - (ii) arrange or attempt to arrange contact with that person; or
  - (iii) procure another person to contact, attempt to contact, or attempt to arrange contact with, that person;

while the objection remains in force.

#### **Birth details of adopted person born overseas**

74. When an adopted child who was—

- (a) born outside Australia; and
- (b) brought to Australia for the purpose of adoption in Australia;

attains the age of 18 years, the Director shall, at the request of the adopted child, furnish him or her with a copy of his or her birth certificate or such other information as is available from the records of the appropriate authority in the child's country of origin.

#### **Application to Court in absence of consent**

75. (1) Where—

- (a) a person would, under this Division, be entitled to identifying information with the approval in writing of another person; and
- (b) that other person has refused to give that approval;

the first-mentioned person may apply to the Court for an order under subsection (3).

(2) On an application under subsection (1), the Court may request the Director to investigate the matter and to provide a report in writing to the Court.

(3) The Court may, if of the opinion that there are circumstances that justify the order, make an order declaring that the applicant is entitled to access to, and to apply for, the identifying information specified in the order.

(4) Where the Court makes an order under subsection (3), the applicant for the order shall, for the purposes of section 62, be taken to be entitled to access to, and to apply for, identifying information of the kind specified in the order.

### **Other person's right to information**

**76. (1)** A person who is not entitled under any other provision of this Part to access to, and to apply for, information may apply to the Court for an order under subsection (3).

(2) An application under subsection (1) shall be accompanied by a report from the Director.

(3) On an application under subsection (1), the Court may, after considering the report referred to in subsection (2) and if of the opinion that there are circumstances that justify the order, make an order declaring that the applicant is entitled to access to, and to apply for, the information specified in the order.

(4) Where the Court makes an order under subsection (3), the applicant for the order shall, for the purposes of subsection 60 (1), be taken to be entitled to access to, and to apply for, information of the kind specified in the order.

### **Adoption Information Service**

**77. (1)** The Minister shall cause to be established and maintained within the relevant administrative unit a service to be known as the Adoption Information Service.

(2) The Director is responsible for the administration of the Service.

(3) The function of the Service is to—

- (a) advise persons with respect to the provisions of this Part;
- (b) make arrangements for the provision of counselling in relation to applications under this Part;
- (c) supervise the taking of and keep declarations made pursuant to section 73;
- (d) receive applications for information under this Part; and

- (e) subject to and in accordance with this Part, facilitate the provision of information to a person whose name is entered in the Adoption Information Register maintained under section 78.

### **Adoption Information Register**

**78. (1)** The Director shall establish and maintain an Adoption Information Register.

**(2)** The register shall contain—

**(a)** the names and addresses of—

- (i)** adopted persons;
- (ii)** birth parents of adopted persons;
- (iii)** birth relatives of adopted persons; and
- (iv)** adoptive parents;

who have, in writing, requested the Director to enter their names and addresses in the register; and

**(b)** in relation to each person so registered, notations recording the wishes of any such person with respect to—

- (i)** obtaining identifying information about, or contacting or providing information to; or
- (ii)** whether or not to release the name, address or any information about the person to;

another person whose name is, or may in the future be, entered in the Adoption Information Register.

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

### **Contact Veto Register**

**79. (1)** The Director shall establish and maintain a Contact Veto Register.

**(2)** The register shall contain—

- (a)** the name of each person who has duly lodged a contact veto;
- (b)** the address nominated by the person as the address at which any personal or postal contact by the Director with the person should be made;
- (c)** the date and place of birth of the person;



- (d) the persons or class of persons in relation to whom an objection under section 70 or 71 has been lodged; and
- (e) the name and address of each person who has duly requested under this Act that he or she be notified of the cancellation or variation of a contact veto.

### **Reunion Information Register**

**80. (1)** The Director shall establish a Reunion Information Register.

**(2)** The Director shall enter in the register the name of every person who has duly applied for entry of his or her name in the register with a view to a reunion with a person from whom he or she has been separated as a consequence of an adoption.

**(3)** Application for entry in the register is to be made in the form approved by the Director.

## **PART VI—PRIVATE ADOPTION AGENCIES**

### **Application for approval**

**81. (1)** A charitable organisation desiring to conduct negotiations and make arrangements with a view to the adoption of children may apply in writing to the Director for approval as a private adoption agency.

**(2)** An application under subsection (1) shall specify the name of a person resident in the Territory appointed by the organisation to be its principal officer in the Territory for the purposes of this Act.

### **Grant or refusal of approval**

**82. (1)** The Director may grant or refuse to grant the approval sought in the application under subsection 81 (1).

**(2)** Without limiting the generality of subsection (1), the Director shall refuse the approval sought if it appears to the Director that the applicant is—

- (a) not a charitable organisation; or
- (b) not suited to conducting negotiations and making arrangements with a view to the adoption of children.

**(3)** For the purpose of subsection (2), the Director shall have regard to—

- (a) the qualifications, experience, character and number of persons—
  - (i) taking part, or proposing to take part, in the management or control of the organisation; or

- (ii) who would, on behalf of the organisation, conduct the negotiations or make the arrangements if the approval were granted; and
- (b) any other relevant considerations.

### **Change in principal officer**

**83. (1)** If a vacancy occurs in the position of principal officer for a private adoption agency, the agency shall, within 7 days—

- (a) appoint a person resident in the Territory as its principal officer in the Territory for the purposes of this Act; and
- (b) notify the Director in writing accordingly.

**(2)** A person ceases to be the principal officer of a private adoption agency for the purposes of this Act if the person ceases to be resident in the Territory.

### **Effect of action by principal officer**

**84. (1)** Any act or thing done by the principal officer of a private adoption agency for the purposes of this Act shall, for those purposes, be deemed to have been done by the private adoption agency.

**(2)** Subsection (1) shall not be taken to affect any personal liability of a principal officer for any act or thing done.

### **Revocation or suspension of approval**

**85. (1)** The Director may, by notice in writing served on the principal officer of a private adoption agency, revoke or suspend the approval of the agency under this Part—

- (a) at the request of the agency; or
- (b) on the ground that the agency—
  - (i) is no longer suitable to conduct negotiations and make arrangements with a view to the adoption of children; or
  - (ii) has contravened a provision of this Part or the regulations.

**(2)** For the purpose of subparagraph (1) (b) (i), the Director shall have regard to the matters specified in subsection 82 (3).

### **Effect of cessation of approved agency**

**86.** Where a charitable organisation ceases to be approved as a private adoption agency—

- (a) all records and other documents held by it or under its control relating to the conduct of negotiations or the making of arrangements of adoptions shall become the property of the Director;

- (b) if the principal officer of the organisation was, immediately before the cessation, the guardian of a child under this Act, the Director becomes the guardian of that child upon the cessation; and
- (c) the negotiations or arrangements being undertaken by the organisation immediately before the cessation may be continued by the Director.

### **Requirements for private adoption agencies**

**87.** The regulations may prescribe requirements to be observed, and 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.

## **PART VII—OFFENCES**

### **Territorial application of Part**

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

### **Taking away etc. of adopted child by birth parent**

**89.** A person who was a parent or guardian of a child but has, by reason of an adoption of the child, ceased to be the parent or guardian of the child shall not take, lead, entice or decoy the child away, or detain the child with intent to deprive the adoptive parents of the custody of the child.

Penalty: \$50,000 or imprisonment for 5 years.

### **Receiving or harbouring child**

**90.** A person shall not receive or harbour a child on behalf of a person who, to his or her knowledge, has contravened section 89.

Penalty: \$20,000 or imprisonment for 2 years.

### **Interfering with upbringing of child**

**91.** A person who was a parent or guardian of a child but has, by reason of an adoption of the child, ceased to be the parent or guardian of the child shall not—

- (a) interfere in or influence the upbringing of the child or the relationship between the child and the adoptive parents; or
- (b) except where an adoptive parent is a birth relative of the child or a person referred to in subsection 18 (2)—otherwise than in