

- (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) any guardianship of the adopted child ceases to have effect; and
- (e) any previous adoption of the child (whether effected under the law of Queensland or otherwise) ceases to have effect.

(2) Notwithstanding subsection (1) of this section, for the purposes of any law 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.

29. Effect of orders as regards dispositions of property, &c. (1) The provisions of subsection (1) of section twenty-eight of this Act 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—

- (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 twenty-eight of this Act 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 effect as if the repealed Acts had not been repealed and the adoption order had been made under the repealed Acts.

(5) Nothing in section twenty-eight of this Act or in this section affects the operation of any 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.

30. Names of adopted child. (1) Subject to subsection (2) of this section, upon the making of an adoption order, the adopted child shall have as his surname the surname of the adopter or adopters and shall have as his first name or christian name or names such name or names as the Director, in the adoption order, approves on the application of the adopter or adopters.

(2) Where, before the making of the adoption order, the adopted child has been generally known by a particular surname, the Director 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 any other Act or law.

31. Effect of order on domicile. (1) Subject to this section, upon the making of an adoption order, the adopted child acquires the domicile of the adopter or adopters 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 adopter or those adopters.

(2) The domicile acquired, upon 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.

32. Adoption order not to affect the distribution of property by trustees or personal representatives unless notice given. (1) Notwithstanding any other provision of this Act, trustees or personal representatives may, subject to this section, convey, transfer or distribute real or personal 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 real or personal property in the manner referred to in subsection (1) of this section shall not be 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 a person, other than a purchaser for value, who has received it.

Division 5—Interim Orders

33. Making of interim orders. (1) Upon an application for an order for the adoption of a child, the Director may postpone the determination of the application and make an interim order for the custody of the child in favour of the applicants.

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

(3) The Director shall not make an interim order in respect of a child in favour of any persons unless he could lawfully make an order for the adoption of that child by those persons.

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

34. Duration of interim orders. (1) Subject to this Division, an interim order remains in force for such period, not exceeding one year, as the Director specifies in the order and for such further periods, if any, as the Director may from time to time order.

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

35. Discharge of interim orders. (1) The Director may, at any time, make an order discharging an interim order made under this Division or under the repealed Acts, and, if the child was, at the time of the making of the interim order, a "State Child" within the meaning of "*The State Children Acts, 1911 to 1955*," and is at the time of discharge of the interim order, under the age of eighteen years, the child shall be a "State Child," within the meaning of the lastmentioned Acts.

(2) An interim order, whether under this Act or the repealed Acts, ceases to have effect upon the making of an order for the adoption of that child, whether made in Queensland or in another State or in a Territory of the Commonwealth.

PART IV—RECOGNITION OF ADOPTIONS

36. Definition. In this Part, "country" includes a part of a country.

37. Recognition of Australian adoptions. For the purposes of the laws of Queensland, the adoption of a person (whether before or after the commencement of this Act) in another State or a Territory of the Commonwealth, 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 Queensland under this Act, and has no other effect.

38. Recognition of foreign adoptions. (1) For the purposes of the laws of Queensland, 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.

(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 or adopters were, by the adoption, placed generally in relation to the adopted person in the position of a parent or parents.

(3) The Governor in Council may from time to time, by Order in Council declare that all or any adoptions under the law of a particular country outside the Commonwealth and the Territories of the Commonwealth and specified in the Order in Council shall be conclusively presumed to comply with the requirements of paragraphs (c) and (d) of subsection (2) of this section.

Whilst any such declaration as aforesaid is in force, effect shall be given thereto in accordance with the tenor thereof.

(4) Notwithstanding the foregoing provisions of this section, a court (including a Court dealing with an application under section thirty-nine of this Act) may refuse to recognise 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.

(5) Where, in any proceedings before a court (including proceedings under section thirty-nine of this Act), 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.

(6) 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 Queensland.

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

39. Declarations of validity of foreign adoptions. (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-eight of this Act 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 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 Court makes an order upon 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) In the case of an application to the Court under subsection (1) of this section, the Court may make such orders as to costs and security for costs, whether by way of interlocutory order or otherwise, as the Court thinks just.

(6) For the purposes of the laws of Queensland, an order under this section binds the Crown in right of the State of Queensland, whether or not notice was given to the Attorney-General, but, except as provided in subsection (7) 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.

(7) In proceedings in a court in Queensland, being proceedings relating to the rights of a person other than a person referred to in subparagraph (i) or (ii) of paragraph (a) of subsection (6) of this section, the production of a copy of an order made under this section, certified by the Registrar of the Supreme Court to be a true copy, shall be 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-eight of this Act applies.

PART V—OFFENCES

40. Territorial application of Part. This Part does not apply in respect of acts occurring outside Queensland, but, unless otherwise expressly provided, does apply in respect of acts done in Queensland in relation to the adoption of children in, or children adopted in, another State or a Territory of the Commonwealth, or a country outside the Commonwealth and the Territories of the Commonwealth.

41. Taking away, &c., of adopted child by natural parent. A person who was the father or mother or a guardian of a child but has, by reason of the adoption of the child, ceased to be the father or mother or a guardian of the child shall not take, lead, entice or decoy the child away, or detain the child, with intent to deprive the adopter or adopters of possession of the child.

Penalty: Two hundred pounds or imprisonment for six months.

42. Harboursing child taken from adopters. A person shall not receive or harbour 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 forty-one of this Act.

Penalty: Two hundred pounds or imprisonment for six months.

43. Payments in consideration of adoptions, &c. (1) Subject to this section, a person shall not (whether before or after the birth of the child concerned) make, give or receive, or agree to make, give or receive, a payment or reward for or in consideration of—

- (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 a child;
- (c) the transfer of 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.

Penalty: Two hundred pounds or imprisonment for six months.

(2) The references in subsection (1) of this section to the adoption or proposed adoption of a child shall be read as including references to the adoption or proposed adoption of a child under the law of any place (whether in or outside the Commonwealth and the Territories of the Commonwealth).

(3) Subsection (1) of this section does not apply to or in relation to either of the following payments or rewards in connection with an adoption or proposed adoption under this Act—

- (a) a payment made by the adopter or adopters, with the approval in writing of the Director, 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;
- (b) any other payment or reward authorised in writing by the Director.

(4) 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 another State or of a Territory of the Commonwealth or of a country outside the Commonwealth and the Territories of the Commonwealth 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 Territory or country.

44. Restrictions on advertising. (1) Subject to this section, a person shall not publish, or cause 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.

Penalty: Two hundred pounds or imprisonment for six months.

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

45. Restrictions on publication of identity of parties. (1) Subject to this section, a person shall not publish, or cause to be published, in a newspaper or periodical, or by means of broadcasting or television, in relation to any application under this Act (whether to the Director or to the Court), or in relation to an application under a law of another State

or of a Territory of the Commonwealth for the adoption of a child or for the discharge of an order for the adoption of a child, or in relation to the proceedings on any such aforementioned application, the name of the applicant, the child, the father or mother or a guardian of the child, or, where applicable, the name of an adopter of the child, or any matter reasonably likely to enable any of those persons to be identified.

Penalty: Two hundred pounds or imprisonment for six months.

(2) Subsection (1) of this section does not apply to the publication of any matter with the authority of the court to which the application was made.

46. Penalty for making unauthorised arrangements. (1) Subject to this section, a person shall not, unless he is a duly authorised officer, employee, or agent of the Director, conduct, or attempt to conduct, any negotiation, or make, or attempt to make, any arrangement with a parent or guardian of a child for or towards or with a view to the adoption of the child.

Penalty: Two hundred pounds or imprisonment for six months.

(2) Subsection (1) of this section shall not be taken to refer to or include the preparation of an application under this Act for the adoption of a child or any arrangements made by or on behalf of a parent, guardian or relative of a child for the adoption of the child by a relative of the child.

47. False statements. A person shall not, whether orally or in writing, wilfully make a false statement for the purposes of or in connection with a proposed adoption or any other matter under this Act.

Penalty: Two hundred pounds or imprisonment for six months.

48. Personation. A person shall not personate or falsely represent 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 of the Commonwealth.

Penalty: Two hundred pounds or imprisonment for six months.

49. Presenting forged consent, &c. A person shall not present, or cause to be presented, to the Director 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 knowing that the signature to the document is or was forged or obtained by fraud or duress.

Penalty: Two hundred pounds or imprisonment for six months.

50. Improperly witnessing consent to adoption. A person shall not subscribe his 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 of the Commonwealth) unless—

- (a) he is satisfied that the person signing the instrument is a parent or guardian of the child;
- (b) he takes such steps as are prescribed to satisfy himself that the person signing the instrument understands the effect of the consent; and
- (c) the instrument bears the date on which he subscribes his name as a witness.

Penalty: Two hundred pounds or imprisonment for six months.

51. Authority to prosecute. Proceedings for an offence against this Act shall not be commenced except with the written consent of the Minister.

52. Summary proceedings. (1) All offences against this Act may be prosecuted in a summary way under "*The Justices Acts, 1886 to 1963.*"

(2) 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 period.

53. General penalty. Any person who commits an offence against this Act for which no specific penalty is provided shall be liable to a penalty not exceeding two hundred pounds or to imprisonment for a term not exceeding six months.

PART VI—MISCELLANEOUS

54. Registration of orders. (1) The Director shall cause a memorandum, in accordance with the prescribed form, of every adoption order made under this Act to be sent to the Registrar-General.

(2) The Registrar of the Supreme Court shall cause a copy of every order made under this Act for the discharge of an adoption order to be sent to the Registrar-General.

(3) Upon receipt of a memorandum or copy of an order sent to him under the preceding provisions of this section, the Registrar-General shall—

- (a) register it, as prescribed, in the Adopted Children Register; and
- (b) if it relates to a child whose birth is registered in Queensland, make such alterations to, or entries in, the appropriate registers of births as are prescribed.

55. Adopted Children Register. The "Adopted Children Register" made and kept by the Registrar-General under the repealed Acts shall continue and shall be the Adopted Children Register under this Act.

56. Sending of memoranda of orders to other States and to Territories of the Commonwealth. 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 another State or in a Territory of the Commonwealth, he shall, as soon as 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.

57. Particulars of orders received from other States. Where the Registrar-General receives, in relation to a child whose birth is registered in Queensland, a memorandum or copy of an adoption order made under the law in force in another State or in a Territory of the Commonwealth, or of an order discharging such an order, certified in writing to be a true memorandum or copy by a person authorised so to certify under the law of that State or Territory, he shall—

- (a) register it, as prescribed, in the Adopted Children Register;
and
- (b) make such alterations to, or entries in, the appropriate registers of births as are prescribed.

58. Court hearings to be in camera. An application to the 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 the application.

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

60. Proof of adoptions. In any proceedings in any court in Queensland—

- (a) a document purporting to be either the original or a certified copy of or certified extract from an order effecting an adoption (whether in Queensland or elsewhere); or
- (b) a certified copy of an entry in any public official record of the adoption of children (whether kept in Queensland or elsewhere) or a certificate or extract giving particulars of such an entry and purporting to be signed by the person having the custody of such record,

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

61. Judicial notice of signatures. In proceedings under this Act, or affecting any matter 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 any of the following Offices, that is to say—

- (a) the Director of the State Children Department;
- (b) the Deputy Director of the State Children Department,

and of any corresponding officer in another State or in a Territory of the Commonwealth, and of any delegate of such a person, 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.

62. Deputy Director. The fact that the Deputy Director of the State Children Department or a person for the time being performing the duties of the office of the Deputy Director of the State Children Department made an adoption order or exercised any power, authority or function, or performed any duty conferred by this Act or the repealed Acts on the Director of the State Children Department shall, until the contrary is proved, be sufficient evidence that the Deputy Director or such person so acted in accordance with subsection (2) of section 7A of “*The State Children Acts, 1911 to 1955.*”

63. Parties to applications to Court. (1) Where an application is made to the Court under section sixteen, twenty-five, or twenty-six of this Act, the Court may permit such persons as the Court thinks fit to be joined as parties to the proceedings for the purpose of opposing the application.

(2) Where the Court, pursuant to subsection (1) of this section, permits a person or persons other than the applicant to be joined as a party or parties to the proceedings referred to in that subsection, the Court may make such orders as to costs and security for costs, whether by way of interlocutory order or otherwise, as the Court thinks fit.

64. Rules of Court. (1) All such Rules of Court as may be deemed necessary or convenient for regulating the procedure and practice of the Supreme Court for the purpose of giving full effect to sections sixteen,

twenty-five, twenty-six and thirty-nine of this Act may be made, and the provisions of "*The Supreme Court Act of 1921*" and "*The Supreme Court Acts Amendment (Rules Ratification) Act of 1928*" shall apply and extend in respect of such Rules of Court.

(2) Pending the making of Rules of Court referred to in subsection (1) of this section, or where there is no rule or no sufficient rule applicable, a Judge may in respect of an application under section sixteen, twenty-five, twenty-six or thirty-nine of this Act, give such directions as he may deem necessary or convenient for the purposes of giving full effect to the provisions of this Act relative to the application and any steps taken in accordance with the directions given by the Judge shall be deemed to be regular and sufficient.

65. Regulations. (1) The Governor in Council may, from time to time, make such regulations, not inconsistent with this Act, prescribing all matters and things that are necessary or convenient for carrying out or giving effect to this Act, and without limiting the generality of the foregoing provisions of this subsection, in particular, making provision for or in relation to—

- (a) matters of practice, procedure or evidence in or in connection with proceedings under this Act;
- (b) matters of practice or procedure in or in connection with consents to be used for the purposes of this Act;
- (c) forms to be used under this Act and the respective purposes for which such forms or forms to the like effect shall be used;
- (d) fees payable in respect of proceedings under this Act;
- (e) the keeping of the Adoption List;
- (f) the prohibition or regulation of access to the Adopted Children Register;
- (g) the inspection of the records of any proceedings under this Act;
- (h) the furnishing of copies or certificates of, or extracts from, matters included in the Adopted Children Register;
- (i) the making, correction or cancellation of entries relating to adopted children in the registers of births kept under the law of Queensland;
- (j) penalties, not exceeding fifty pounds or imprisonment for three months, for offences against the regulations.

(2) Regulations may be made under this Act at any time after the passing hereof.

66. Publication of Proclamations, &c. (1) Every Proclamation, Order in Council and regulation made under this Act shall—

- (i) be published in the *Gazette*;
- (ii) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (iii) take effect from the date of such publication unless, in the case of any such regulation, a later date is specified in that or in any other regulation for its commencement when in such event it shall take effect from that later date; and
- (iv) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council or regulation has been laid before it disallowing such Proclamation, Order in Council or regulation or part thereof, that Proclamation, Order in Council or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council or regulation.

THE SCHEDULE

[Section 5 (1)]

Year and Number of Act	Short Title	Extent of Repeal
26 Geo. V. No. 7 ..	<i>“ The Adoption of Children Act of 1935 ”</i>	The whole
5 Geo. VI. No. 7 ..	<i>“ The Adoption of Children Act Amendment Act of 1941 ”</i>	The whole
1 Eliz. II. No. 3 ..	<i>“ The State Children Acts and Another Act Amendment Act of 1952 ”</i>	Part III.

The statutes of Queensland passed during the year... [electronic resource]

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