

ADOPTION OF CHILDREN ACT.

Act No. 23, 1965.

Elizabeth II, No. 23, 1965 An Act to make provisions with respect to and consequential upon the adoption of children; to amend the Child Welfare Act, 1939, the Registration of Births Deaths and Marriages Act 1899, and certain other Acts; and for purposes connected therewith. [Assented to, 17th December, 1965.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title. 1. This Act may be cited as the "Adoption of Children Act, 1965".

Commence-ment. 2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division into Parts, etc. 3. This Act is divided into Parts and Divisions as follows:—

PART I.—PRELIMINARY—ss. 1-6.

PART II.—JURISDICTION—ss. 7-9.

PART III.—PRIVATE ADOPTION AGENCIES—ss. 10-16.

PART IV.—ADOPTIONS UNDER THIS ACT—ss. 17-43.

DIVISION 1.—*General*—ss. 17-25.

DIVISION 2.—*Consents to Adoptions*—ss. 26-34.

DIVISION 3.—*Effect of Adoption Orders*—ss. 35-40.

DIVISION 4.—*Interim Orders*—ss. 41-43.

PART V.—RECOGNITION OF ADOPTIONS—ss. 44-47.

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PART VI.—OFFENCES—ss. 48-60.

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PART VII.—MISCELLANEOUS—ss. 61-73.

PART VIII.—AMENDMENTS TO REGISTRATION OF BIRTHS DEATHS AND MARRIAGES ACT 1899, AS AMENDED BY SUBSEQUENT ACTS—s. 74.

4. (1) The Child Welfare Act, 1939, as amended by subsequent Acts, is amended—

Amendment of Act No. 17, 1939.

(a) by omitting from section two the matter relating to Part XIX;

Sec. 2.
(Parts of Act.)

(b) by omitting from subsection one of section four the definition of "Adopting parent" and by inserting in lieu thereof the following definition :—

Sec. 4.
(Interpretation.)

"Adopting parent" means a person who has adopted a child under the Adoption of Children Act, 1965, or under any enactments repealed by that Act.

(c) by omitting Part XIX.

Part XIX.
(Adoption of Children.)

(2) The Child Welfare (Amendment) Act, 1941, is repealed.

Repeal of Act No. 63, 1941.

(3) The Child Welfare (Further Amendment) Act, 1961, is repealed.

Repeal of Act No. 27, 1961.

5. (1) Notwithstanding the provisions of section four of Savings. this Act—

(a) an order for adoption made under the former Acts and in force at the commencement of this Act continues in force;

(b) an application for an order for adoption under the former Acts that was pending immediately before the commencement of this Act may be continued and dealt with under the provisions of the former Acts as if this Act had not been passed, but an adoption order made in pursuance of this paragraph shall have effect as if made under this Act.

(2)

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(2) A consent in writing to the adoption of a child given by a person before the commencement of this Act in accordance with the former Acts shall, for the purposes of proceedings under this Act for the adoption of the child, be deemed to be a sufficient consent of the person giving the consent.

(3) Where a consent referred to in subsection two 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;
- (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 relatives, as the case may be, of the child.

(4) Subject to subsection five of this section, the provisions of sections thirty-five and thirty-six (subsection four of section thirty-six excepted) of this Act apply, as from the commencement of this Act, in relation to an adoption order made under the former Acts as if this Act had been in force when the order was made and the order had been made under this Act upon its commencement.

(5) In relation to—

- (a) 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; or
- (b) a devolution of property upon the intestacy of any person who died before the commencement of this Act,

an adoption order referred to in subsection four of this section has the same effect as if the former Acts had continued in operation.

(6)

(6) Notwithstanding any other provision of this Act, No. 23, 1965 where—

- (a) a will made by any person before the commencement of this Act conferred on any person a special power of appointment in respect of any property, the objects of that power being the issue, immediate or remote, or the children, of any specified person;
- (b) that special power of appointment was or is not exercised before the general power of appointment referred to in paragraphs (c) and (d) of this subsection is exercised;
- (c) that will also conferred on any person a general power of appointment in respect of that property; and
- (d) that general power of appointment has been, before that commencement, or is, after that commencement, exercised exclusively in favour of any issue, immediate or remote (including any person or persons who was or were adopted by that specified person under the former Acts) or children (including any such adopted person or persons) of that specified person,

that general power shall, for all purposes, be deemed to be a special power in favour of the issue, immediate or remote, or the children, as the case may be, of that specified person to the extent to which the disposition of that property had not, by virtue of that general power of appointment, taken effect in possession before that commencement.

6. In this Act, unless inconsistent with the context or subject matter— **Interpretation.**

“Adoption order” means an order for the adoption of a child under this Act.

“Charitable organisation” means an organisation, corporate or unincorporate, formed or carried on primarily or principally for religious, charitable, benevolent or philanthropic purposes, but does not include an organisation formed or carried on for the purpose of trading or securing a pecuniary profit to its members or an incorporated hospital or separate

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separate institution within the meaning of the Public Hospitals Act, 1929, as amended by subsequent Acts.

“Child” means a person who has not attained the age of twenty-one years, or a person who has attained that age and in respect of whom an adoption order is sought or has been made.

“Commonwealth” means the Commonwealth of Australia.

“Court” means the Supreme Court of New South Wales in its equitable jurisdiction.

“Director” means the Director of the Child Welfare Department.

“Disposition of property” includes the grant or exercise of a power of appointment in respect of property.

“Father”, in relation to a child who is illegitimate, means the putative father.

“General consent” means a consent to the adoption of a child other than the consent referred to in subsection two of section twenty-seven of this Act.

“Guardian”, in relation to a child, includes—

- (a) a person having the custody of the child under a court order; 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 the Commonwealth or of another State or a Territory of the Commonwealth.

“Interim order” means an interim order under Division 4 of Part IV of this Act.

“Prescribed” means prescribed by this Act or the regulations.

“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 private adoption agency was approved under this Act,

Act, or the person specified as the principal officer in the latest notice given to the Director by the private adoption agency under subsection two of section twelve of this Act. No. 23, 1965

“Private adoption agency” means a charitable organisation for the time being approved as a private adoption agency under Part III of this Act.

“Regulations” means regulations under this Act.

“Relative”, in relation to a child, means a grandparent, 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 upon the adoption of any person.

“Territory of the Commonwealth” includes a Territory under the trusteeship of the Commonwealth.

“the former Acts” means all or any of the enactments referred to in section four of this Act.

PART II.

JURISDICTION.

7. Jurisdiction is conferred on the Court in proceedings instituted in the Court in accordance with this Act. Jurisdiction of Supreme Court.

8. (1) The 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— Cases in which jurisdiction may be exercised.

(a) the applicant, or (in the case of joint applicants) each of the applicants, was resident or domiciled in New South Wales; and

(b) the child was present in New South Wales.

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(2) For the purposes of subsection one of this section, where the Court is satisfied that an applicant was resident or domiciled in New South Wales, or that the child was present in New South Wales, 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 New South Wales, or that the child was present in New South Wales, 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.

9. The jurisdiction of the 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.

10. A charitable organisation 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 Director for approval as a private adoption agency.

Director may grant or refuse application.

11. (1) The Director—

- (a) may grant or refuse an application under section ten of this Act; and
- (b) shall give notice in writing served personally or by registered post of his decision to the person specified in the application as the principal officer of the organisation.

(2) Without limiting the generality of subsection one of this section, the Director shall refuse an application if it appears to him that the applicant is not a charitable organisation 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

character and number of the persons taking part, or proposing to take part, in the management or control of the organisation, or engaged or proposed to be engaged, on behalf of the organisation, in the conducting of such negotiations or the making of such arrangements. No. 23, 1965

(3) Every approval of a private adoption agency shall be subject to such conditions and requirements as may be prescribed, and to such additional conditions and requirements as the Director, in any particular case, thinks fit and specifies in the notice given to its principal officer under subsection one of this section.

12. (1) Before making an application under section ten of this Act, a charitable organisation shall appoint a person resident in New South Wales to be its principal officer in New South Wales for the purposes of this Act in the event of the granting of the application. Principal officer of private adoption agency.

(2) If the application is granted, the private adoption agency shall, within seven days after the occurrence of a vacancy in the office of principal officer, appoint a person resident in New South Wales to fill the vacancy and give notice in writing to the Director of the appointment.

(3) An application under section ten of this Act shall specify the name of the principal officer, and the address of the principal office in New South Wales, of the charitable organisation making the application.

(4) For the purposes of subsection two 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 New South Wales.

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

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Revocation
or suspen-
sion of
approval.

13. (1) The Director may, at any time, revoke or suspend the approval of a private adoption agency under this Part—

- (a) at the request of the agency;
- (b) on the ground that the agency is no longer 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 matters referred to in section eleven of this Act; or
- (c) on the ground that the agency has contravened, or failed to comply with, a provision of this Act or the regulations that is applicable to it or any additional condition or requirement referred to in subsection three of section eleven of this Act or subsection three of section fourteen of this Act.

(2) Where the Director has revoked or suspended the approval of a private adoption agency under the provisions of subsection one of this section, he shall give notice in writing served personally or by registered post on the principal officer of the private adoption agency of such revocation or suspension.

Appeal
against
refusal, revo-
cation or
suspension.

14. (1) Where the Director—

- (a) refuses an application of an organisation under section ten of this Act;
- (b) approves of such an application subject to additional conditions or requirements referred to in subsection three of section eleven of this Act; or
- (c) revokes or suspends the approval of a charitable organisation as a private adoption agency in accordance with the provisions of section thirteen of this Act,

the organisation may appeal to the Court against the decision of the Director.

(2) Notice in writing of intention to appeal and the general grounds of the appeal shall be given on behalf of the organisation to the Master in Equity and the Director within twenty-one days after the service of notice of the decision.

(3)

(3) On the hearing of an appeal under this section, the Court shall review the decision of the Director and may order that the decision of the Director be confirmed, or order that the organisation be approved as a private adoption agency subject to such conditions and requirements as may be prescribed and to such additional conditions and requirements as the Court thinks fit and specifies in its order.

15. (1) The Director shall cause to be published in the Gazette notice of the approval of any charitable organisation as a private adoption agency under this Part and of the revocation or suspension of any such approval.

Notice of approval to be published in Gazette.

(2) Every such notice shall specify the address of the principal office of the agency concerned and the full name of the principal officer of the agency.

16. The regulations may prescribe conditions and requirements to be observed, and facilities to be provided, by private adoption agencies, including conditions and requirements with respect to the qualifications and experience of persons acting for or on behalf of private adoption agencies.

Regulations relating to private adoption agencies.

PART IV.

ADOPTIONS UNDER THIS ACT.

DIVISION 1.—*General.*

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

Welfare and interests of child to be paramount.

18. (1) Subject to this Act, the Court may, on application, make an order for the adoption of a person who—

Who may be adopted.

(a) had not attained the age of twenty-one years before the date on which the application was filed in the Court; or

(b)

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(b) had attained that age before that date and—

- (i) had been brought up, maintained and educated by the applicant or applicants, or by the applicant and a deceased spouse of the applicant, as his or their child; or
- (ii) had, as a ward within the meaning of the Child Welfare Act, 1939, as amended by subsequent Acts, been boarded-out or placed out as an adopted boarder with the applicant or applicants or with the applicant and a deceased spouse of the applicant.

(2) Except where the applicant is a person, or the applicants are persons, in whose favour a consent referred to in subsection two of section twenty-seven of this Act has been given, the 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.

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

(4) The Court shall not make an order for the adoption of a person who is, or has been, married.

(5) Subject to this Act, 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 New South Wales or elsewhere, previously been adopted.

Persons in whose favour adoption orders may be made.

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

(2)

(2) Subject to subsection three of this section, where No. 23, 1965 the Court is satisfied that exceptional circumstances make it desirable so to do, the Court may make an adoption order in favour of one person.

(3) The 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 unless that person's spouse consents in writing to the application for the adoption order.

(4) The Court may make an adoption order in favour of a husband and wife jointly notwithstanding that one of them is a natural parent, or that they are the natural parents, of the child.

20. The 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,

unless the applicant, or at least one of the applicants, is a natural parent or relative of the child or the Court considers that there are exceptional circumstances that make it desirable to make the adoption order.

21. (1) The 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 proposed adoption;
- (b) where the application for the order is made on behalf of the applicant or applicants by the principal officer of a private adoption agency, that principal officer has also made such a report; and
- (c)

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(c) the Court, after considering any such report and any other evidence before the Court, is satisfied that—

(i) in the case where the child had not attained the age of twenty-one years before the date on which the application for the order was filed in the Court—

(a) the applicant or each of the applicants is of good repute and is a fit and proper person to fulfil the responsibilities of a parent; and

(b) the applicant or each of the applicants is a suitable person to adopt that 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; or

(ii) in the case where the child had attained the age of twenty-one years before the date on which the application was filed in the Court—

(a) the applicant or each of the applicants is of good repute; and

(b) exceptional circumstances make it desirable that the child should be adopted by the applicant or applicants,

and in either case the welfare and interests of the child will be promoted by the adoption.

(2)

(2) Where the regulations provide for the keeping ^{No. 23, 1965} by the Director of a register of persons approved by him as fit and proper persons to adopt children, the Court may refuse to make an adoption order in relation to a child referred to in subparagraph (i) of paragraph (c) of subsection one of this section—

- (a) if, in the case of a sole applicant, his name is not included in that register or, in the case of joint applicants, neither of their names is included in that register; or
- (b) where the name of the applicant or of either applicant or the names of both of the applicants, as the case may be, is or are included in that register—if the Court is satisfied that some other person whose name is included in that register, is entitled under the regulations to be selected by the Director or by the principal officer of a private adoption agency, as the case may be, to be an applicant for an adoption order in priority to the applicant or applicants for the adoption order and that other person is suitable as an adoptive parent of that child.

(3) Subsection two of this section does not apply in any case where the applicant, or either of the applicants, for the adoption order is a parent of the child or is a relative of the child in whose favour a consent referred to in subsection two of section twenty-seven of this Act has been given.

22. (1) The Court shall not make an order for the adoption of a child unless at least fourteen days' notice of the application for the order has been given or sent by registered post—

Notice of application for adoption orders.

- (a) to any person whose consent to the adoption of the child is required under section twenty-six of this Act but whose consent has not been given; and
- (b) to any 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)

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

(3) The Court may, upon application in writing, dispense with the giving of a notice under subsection one of this section.

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

Parties.

23. The Court may permit such persons as the Court thinks fit to be joined as parties to the proceedings for an adoption order for the purpose of opposing the application for the order.

Care of
child after
refusal of an
application.

24. Where the Court refuses an application for an order for the adoption of a child, the Court may make such order for the care and custody of the child as it thinks fit, including an order placing the child in the care of the Minister to be dealt with under the provisions of the Child Welfare Act, 1939, as amended by subsequent Acts, as a ward admitted to State control.

Discharge
of adoption
orders.

25. (1) The Director or the Attorney-General may apply to the Court for an order discharging an order for the adoption of a child made under this Act or under the former Acts and the Court may make such an order if it is satisfied that—

- (a) the order for adoption was obtained by fraud, duress or other improper means;
- (b) any consent relied upon for the making of the order for adoption was a consent referred to in paragraph (a), (b), (c) or (d) of subsection one of section thirty-one of this Act; or

(c)

- (c) there is some other exceptional reason why the No. 23, 1965 adoption order should be discharged.

(2) The 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 the 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 the 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 to promote 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.

(5) Upon 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 four of this section and to subsection four of section thirty-five of this Act, the rights, privileges, duties, liabilities and relationships under the law of New South Wales of the child and of all other persons shall be the same as if the order for adoption 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,

whilst the order for adoption was in force.

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DIVISION 2.—*Consents to Adoptions.*

Consents of
parents and
guardians
required to
adoptions.

26. (1) Subject to this Division, the 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 provisions of subsection two, three or four of this section or the Court is satisfied that there is no such appropriate person.

(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 persons are 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 a 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.

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

27. (1) For the purposes of section twenty-six of this Act but subject to subsection two of this section, every 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 New South Wales, and shall have effect accordingly in relation to an application for adoption made by any person or persons in accordance with this Act.

(2) Subsection one 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.

28. (1) A consent to the adoption of a child given for No. 23, 1965 the purposes of this Act by a person other than the child may be revoked by notice in writing delivered to the Master in Equity before—

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

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

(2) Upon receipt of a notice under this section, the Master in Equity shall forthwith give notice to the Director of the receipt of the notice of revocation and, if it appears to the Master in Equity that the consent was given to the principal officer of a private adoption agency, to that principal officer.

29. A consent for the purposes of section twenty-six of this Act shall be evidenced by an instrument of consent in or to the effect of the prescribed form signed by the person giving the consent and attested as prescribed.

30. 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 another State or of a Territory of the Commonwealth 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.

31. (1) The 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)

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- (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) The 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) The Court shall not make an adoption order in reliance on an instrument of consent signed by the mother of the child on, or within three 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 three of this section a certificate of a legally qualified medical practitioner certifying that, at the time when the instrument of consent was signed by the mother of the child, the mother was in a fit condition to give the consent is evidence of the matter so certified.

Court may
dispense
with con-
sents.

32. (1) The Court, on the application of the Director or of the principal officer of a private adoption agency may, by order, dispense with the consent of a person (other than the child) to the adoption of a child where the Court 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)

- (c) that person is, in the opinion of the Court, unfit to discharge the obligations of a parent or guardian by reason of his having abandoned, deserted, neglected or ill-treated the child; No. 23, 1965
- (d) that person has, for a period of not less than one year, failed, without reasonable cause, to discharge, or to make suitable arrangements 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 may properly be dispensed with.

(2) An order under this section may be made before an application for an adoption order has been made in respect of the child or in conjunction with an adoption order in respect of the child.

(3) Any order under this section made before an application for an adoption order has been made in respect of the child has effect for the purposes of any application for an adoption order that may subsequently be made in respect of the child.

(4) An order under this section referred to in subsection three of this section may, on the application of the Director or of the person whose consent was dispensed with or, where the order under this section was made on the application of the principal officer of a private adoption agency, on the application of that principal officer, be revoked by the Court at any time before the making of an adoption order in respect of the child.

(5) The Court shall not—

- (a) except in relation to a person referred to in paragraph (a) of subsection one of this section make an order under that subsection unless the Director or the principal officer of the private adoption agency applying for the order has given or sent by registered post to the person whose consent is sought to be dispensed with notice of the application for the order at least fourteen days before the application for the order is made to the Court; or
- (b)

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- (b) revoke any such order unless not less than fourteen days' notice of the application has been given, where the Director is not applying for the revocation, to the Director and, where the order under this section was made on the application of the principal officer of a private adoption agency and he is not applying for the revocation, to that principal officer.

Consent of child.

33. 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, where the child has not attained the age of twenty-one years, 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.

Guardian-ship of child awaiting adoption.

34. (1) Subject to this section, where the consent of every person whose consent to the adoption of a child is required under section twenty-six of this Act, either—

- (a) has been given and is a general consent; or
 (b) has been dispensed with by an order made by virtue of subsection one of section thirty-two of this Act,

the Director is the guardian of the child (for purposes other than the purposes of section twenty-six of this Act) to the exclusion of all other persons.

(2) The provisions of subsection one of this section do not apply to a child—

- (a) who is a ward within the meaning of the Child Welfare Act, 1939, as amended by subsequent Acts; or
 (b) unless and until the Director has received notice in writing that a general consent to the adoption of the child has been given.

(3)

(3) Where the Director has become the guardian of a child under subsection one or four 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 the Court concerning the child and the Court shall make such order for the care and control of the child as it thinks fit.

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(4) Without limiting the generality of subsection three of this section, an order under that subsection may direct that the child be placed in the care of the Minister to be dealt with under the provisions of the Child Welfare Act, 1939, as amended by subsequent Acts, as a ward admitted to State control or that the child remain under the guardianship of the Director for a further period of one year.

(5) Where the Director is the guardian of a child under subsection one or four of this section, he shall remain the guardian of the child until—

- (a) an adoption order is made in respect of the child;
- (b) in the case of any consent so given, the instrument of consent is lawfully revoked;
- (c) the Court, by order, makes other provision for the guardianship of the child either pursuant to section twenty-four of this Act or upon the application of the Director or otherwise; or
- (d) the child becomes a ward within the meaning of the Child Welfare Act, 1939, as amended by subsequent Acts.

(6) The Director may, upon such terms and conditions as he thinks fit, place any child of whom he is guardian under the provisions of subsection one 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 person to provide adequate means of support for the child.

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DIVISION 3.—*Effect of Adoption Orders.*General
effect of
adoption
orders.

35. (1) For the purposes of the laws of New South Wales, but subject to this Act and to the provisions of any law of New South Wales that expressly distinguishes in any way between adopted children and children other than adopted children, upon the making of an adoption order—

- (a) the adopted child becomes a child of the adopter or adopters, and the adopter 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 any such 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) any existing guardianship of the adopted child (not being the Minister's guardianship of the child under section nine of the Child Welfare Act, 1939, as amended by subsequent Acts) ceases to have effect; and
- (e) any previous adoption of the child (whether effected under the law of New South Wales or otherwise) ceases to have effect.

(2) The provisions of subsection one of this section do not have effect so as to deprive an adopted child of any vested or contingent proprietary right acquired by the child before the making of the adoption order.

(3) Where—

- (a) one of the natural parents of a legitimate child, or one of two adoptive parents of an adopted child, has died;

(b)

- (b) the surviving parent remarries; and
- (c) the child is adopted by the surviving parent and that parent's spouse,

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any property of any collateral or lineal next-of-kin of the deceased parent who dies intestate shall, notwithstanding subsection one of this section, devolve in all respects as if the child had not been so adopted.

(4) Notwithstanding the provisions of subsection one of this section, for the purposes of any law of New South Wales 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.

36. (1) Subject to subsection two of section thirty-five of this Act, the provisions of subsection one of that section have effect in relation to a disposition of property, whether by will or otherwise, and whether made before or after the commencement of this Act, and to a devolution of property in respect of which a person dies intestate after the commencement of this Act, except that—

Effect of orders as regards dispositions of property, etc.

- (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 one of section thirty-five 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)

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(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, and in relation to a devolution of property in respect of which a person died intestate before that commencement, an adoption order made under this Act has the same effect as if the former Acts had continued in force and the adoption order had been made under those Acts.

(5) Nothing in section thirty-five 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.

Relationship
of adopted
child to
other chil-
dren of the
adopter.

37. For the purposes of the application of the Wills, Probate and Administration Act, 1898, as amended by subsequent Acts, to the devolution of any property in respect of which a person dies intestate and for the purposes of the construction of any disposition of any property, an adopted

child

child shall be deemed to be related to any other person, No. 23, 1965
being the child or adopted child of his or her adoptive parent
or parents—

- (a) where he or she was adopted by two spouses jointly,
and that other person is the child or adopted child
of both of them, as brother or sister of the whole
blood; and
- (b) in any other case, as brother or sister of the half
blood.

38. (1) Subject to subsection two of this section, upon
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.

Names of
adopted
children.

(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 New South
Wales.

39. (1) Subject to subsection two of this section, upon
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.

Effect of
order on
domicile.

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

Adoption of Children Act.

No. 23, 1965

Liability of trustees and personal representatives in respect of adopted persons.

40. (1) Where, before conveying, transferring or distributing any property among the persons appearing to be entitled thereto, a trustee or personal representative gives the notice referred to in section sixty of the Trustee Act, 1925, as amended by subsequent Acts, or section ninety-two of the Wills, Probate and Administration Act, 1898, as amended by subsequent Acts, as the case may be, and the time fixed by the notice has expired, the trustee or personal representative shall not be liable to any person—

- (a) who claims directly or indirectly an interest in the property by virtue of an adoption; and
- (b) of whose claim he does not have notice at the time of the conveyance, transfer or distribution.

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

DIVISION 4.—Interim Orders.

Making of interim orders.

41. (1) Upon an application to the 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 applicants.

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

(3) The Court shall not make an interim order in respect of a child in favour of any persons unless the Court 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.

42. (1) Subject to this Division, an interim order remains in force for such period, not exceeding one year, as the Court specifies in the order and for such further periods, if any, as the Court may from time to time order. No. 23, 1965
Duration of interim orders.

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

43. (1) The Court may, at any time, make an order discharging an interim order made under this Division. Discharge of interim orders.

(2) Where the Court discharges an interim order under the provisions of subsection one of this section the Court may make such order for the care and custody of the child as it thinks fit, including an order placing the child in the care of the Minister to be dealt with under the provisions of the Child Welfare Act, 1939, as amended by subsequent Acts, as a ward admitted to State control.

(3) An interim order in respect of a child ceases to have effect upon the making of an order for the adoption of that child, whether made in New South Wales or in another State or Territory of the Commonwealth.

PART V.

RECOGNITION OF ADOPTIONS.

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

45. For the purposes of the laws of New South Wales, the adoption of a person (whether before or after the commencement of this Act) in another State or Territory of the Commonwealth, in accordance with the law of that other State or Territory has, so long as it has not been rescinded under the law in force in that other State or Territory, the same effect as if it were an order for adoption under this Act or the former Acts, as the case may be, made in New South Wales on the date on which it was effected and has no other effect. Recognition of Australian adoptions.

46.

Adoption of Children Act.

No. 23, 1965
Recognition
of foreign
adoptions.

46. (1) For the purposes of the laws of New South Wales, 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 if it were an order for adoption under this Act or the former Acts, as the case may be, made in New South Wales on the date on which it was effected and has no other effect.

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

(3) Notwithstanding the foregoing provisions of this section, a court (including a court dealing with an application under section forty-seven of this Act) 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)

(4) Where, in any proceedings before a court (including proceedings under section forty-seven 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 two 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 New South Wales.

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

47. (1) A person specified in subsection two of this section may apply to the 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 forty-six of this Act applies, and the Court may hear and determine the application and, if it thinks fit, make an order accordingly.

Declarations
of validity
of foreign
adoptions.

(2) The persons who may make an application under subsection one 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 (including the Attorney-General) as the Court thinks fit;
- (b) direct that a person be made a party to the application; or

(c)

Adoption of Children Act.

No. 23, 1965

- (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) For the purposes of the laws of New South Wales, an order under this section binds the Crown in right of New South Wales, whether or not notice was given to the Attorney-General, and any person who was—

- (a) a party to the proceedings for the order or a person claiming through such a party; or
(b) a person to whom notice of the application for the order was given or a person claiming through such a person,

but does not affect—

- (c) the rights of any other person; or
(d) an earlier judgment, order or decree of a court of competent jurisdiction.

(6) In proceedings in a court of New South Wales, the production of a copy of an order under this section, certified by the Master in Equity to be a true copy, shall—

- (a) where the proceedings relate to a person referred to in paragraph (a) or (b) of subsection five of this section, be conclusive evidence; and
(b) where the proceedings relate to the rights of any other person, 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 forty-six of this Act applies.

PART

PART VI.

No. 23, 1965

OFFENCES.

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

Territorial application of Part.

49. (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, or counsels, causes or attempts to cause the child to be withdrawn or to abscond 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 parent.

(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 has counselled, caused or attempted to cause the child to be withdrawn or to abscond, or is detaining the child in contravention of subsection one of this section is guilty of an offence against this Act.

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

Payments in consideration of adoptions, etc.

- (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 the possession or control of a 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 a child,

is guilty of an offence against this Act.

(2)

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(2) Subsection one 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—

- (a) a payment of legal expenses or fees authorised by the regulations;
- (b) a payment made by the adopters, with the approval in writing of the Director or with the approval of the 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 authorised by the Director or by the Court.

(3) Subsection one 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 a Territory of the Commonwealth 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 other State or Territory.

Unauthorised arrangements for adoptions.

51. (1) A person, other than the Director, a person acting on behalf of the Director, the principal officer of a private adoption agency, or a person authorised in writing by such a principal officer to act on his behalf, 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, or with the written permission of, the Director, 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)

(2) Subsection one of this section does not apply No. 23, 1965 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.

52. (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 adver-
tising, etc.

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

53. (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 another State or a Territory of the Commonwealth for the adoption of a child or the proceedings on such an application, the name of an applicant, the child, or the father or mother or a guardian of the child, or any matter reasonably likely to enable any of those persons to be identified, is guilty of an offence against this Act.

Restriction
on publica-
tion of
identity of
parties.

(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.

54.

Adoption of Children Act.

No. 23, 1965 **54.** 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.

55. 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 another State or a Territory of the Commonwealth is guilty of an offence against this Act.

Personation of person whose consent to an adoption is required.

56. Where a person presents, or causes to be presented, to the 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 that first-mentioned person, forged or obtained by fraud or duress, that first-mentioned person is guilty of an offence against this Act.

Presenting forged consent.

57. 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—

Undue influence.

(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.

58. 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—

Improper witnessing of consent.

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

(b)

- (b) without taking such steps as are prescribed to No. 23, 1965 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.

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

60. (1) Any person guilty of an offence against this Act is liable to a penalty not exceeding two hundred pounds or to imprisonment for six months. Summary proceedings.

(2) Penalties imposed by this Act or by the regulations may be recovered in a summary manner before a children's court established under the Child Welfare Act, 1939, as amended by subsequent Acts.

(3) A prosecution for an offence against this Act or against the regulations 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.

(4) Proof of the time when the commission of an offence came to the knowledge of the complainant shall lie upon the complainant.

PART VII.

MISCELLANEOUS.

61. The Master in Equity shall cause a memorandum, in accordance with the prescribed form, of every adoption order, of every order made under section forty-seven of this Act, and of every order for the discharge of such an adoption order, to be sent to the Registrar-General. Functions of Master in Equity in relation to orders under this Act.

62.

Adoption of Children Act.

- No. 23, 1965** **62.** Where the Court makes an order for the adoption of a child, or an order discharging such an order, and the Master in Equity has reason to believe that the birth or previous adoption of the child is registered in another State or in a Territory of the Commonwealth, the Master 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 other State or Territory having functions in relation to the registration of births as is prescribed.
- 63.** Where the Master in Equity receives, in relation to a child whose birth or previous adoption is registered in New South Wales, a memorandum or copy of an adoption order made (whether by a court or not) 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 other State or Territory, he shall cause a memorandum, in accordance with the prescribed form, of the memorandum or copy so received to be sent to the Registrar-General.
- 64.** Any proceedings before the Court under this Act or the regulations 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 proceedings.
- 65.** The Court, in the hearing of any proceedings under this Act or the regulations, may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal with the matter of the proceedings whether or not the statement, document, information or matter would be otherwise admissible.

66. Except as the Court otherwise orders, a report to the Court referred to in section twenty-one or thirty-four of this Act shall not be made available to any person, including a party to the proceedings.

No. 23, 1965
Contents of reports not to be disclosed.

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

Restriction on inspection of records.

68. The Director may appear at the hearing of the proceedings on any application under this Act, and may address the Court, and call, examine and cross-examine witnesses.

Director may appear at hearings.

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

Delegation.

(2) Where any such power, authority, duty or function is so delegated and its exercise or performance depends upon the opinion, belief or state of mind of the Director, that power, authority, duty or function may be exercised or performed by the delegate upon the opinion, belief or state of mind of the delegate.

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

70. In any proceedings in a court of New South Wales, 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).

Proof of adoptions.

71.

Adoption of Children Act.

No. 23, 1965 **71.** (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 another State or in a Territory of the Commonwealth, 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.

Judicial
notice of
signatures.

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

72. The provisions of section ninety-four of the Equity Act, 1901, as amended by subsequent Acts, extend to authorising the making of rules for the purposes of this Act.

Regulations. **73.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to—

- (a) the forms to be used for the purposes of this Act;
- (b) the fees to cover administrative and other expenses payable to the Director or to a private adoption agency in any case where the Director or the principal officer of a private adoption agency makes, on behalf of an applicant, any application under this Act and the waiving of any such fees;
- (c) the conduct of private adoption agencies;
- (d) the keeping of registers by the Director of persons approved by him as fit and proper persons to adopt children and the order in which persons whose names are included in any such list may be selected to be applicants for adoption orders;
- (e) the making of appeals to the Court against the exclusion of the name of any person from any register referred to in paragraph (d) of this subsection and the jurisdiction of the Court to hear and determine those appeals;

(f)

- (f) notifying the Director of the giving of a general No. 23, 1965 consent to the adoption of a child;
- (g) imposing penalties, not exceeding fifty pounds, for offences against the regulations; and
- (h) prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication thereof if Parliament is then in session and, if not, then within fourteen sitting days after the commencement of the next session.

(3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that House disallowing any regulation or part thereof, that regulation or part thereupon ceases to have effect.

PART VIII.

AMENDMENTS TO REGISTRATION OF BIRTHS DEATHS AND MARRIAGES ACT 1899, AS AMENDED BY SUBSEQUENT ACTS.

74. (1) The Registration of Births Deaths and Marriages Act 1899, as amended by subsequent Acts, is amended—

- (a) by inserting in section one after the matter relating to Part V the following new matter :—

PART VA.—Provisions as to Registration of Adoptions—s. 26A.

Amendment
of Act
No. 17,
1899.

Sec. 1.
(Short title
and division
into Parts.)

(b)

Adoption of Children Act.

- No. 23, 1965**
 Sec. 11.
 (General Registry indexes.)
- (b) by omitting paragraph (d) of subsection one of section eleven and by inserting in lieu thereof the following paragraph :—
- (d) an index of all adoptions registered in pursuance of the Adoption of Children Act, 1965, or of provisions made by or under any previous enactment;
- Sec. 16.
 (Correction of errors.)
- (c) by omitting from subsection one of section sixteen the words “or death” and by inserting in lieu thereof the words “, death or adoption”;
- Sec. 23A.
 (Registration of change of name.)
- (d) (i) by inserting in subsection one of section 23A after the word “births” the words “or that the adoption of that person is registered in the register of adoptions”;
- (ii) by omitting from subsection two of the same section the words “In any such case” and by inserting in lieu thereof the words “Except where the entry made by the Registrar-General under subsection one of this section is made in the register of adoptions.”;
- New Part VA.
- (e) by inserting next after Part V the following new Part :—

PART VA.*Provisions as to Registration of Adoptions.*

Registration of adoption.

26A. As soon as practicable after the receipt of any memorandum sent to him under section sixty-one or sixty-three of the Adoption of Children Act, 1965, the Registrar-General shall—

- (a) register it in the register of adoptions to be kept by him;
- (b) if it relates to a person whose birth is registered in the register of births kept by him, make in that register on the page on which the entry of birth was registered a note of the registration of that memorandum and shall forthwith forward to the district registrar,

registrar, if any, having the custody of the register in which the birth was originally registered such information as may be necessary and the district registrar shall likewise note the entry of birth made in his register and inform the Registrar-General that the note has been made; and

- (c) if it relates to a person in respect of whom a memorandum under section sixty-one or sixty-three of the Adoption of Children Act, 1965, has previously been registered in the register of adoptions kept by him, make in that register on the page on which the previous memorandum was registered a note of the registration of the subsequent memorandum.

(2) The Registration of Births Deaths and Marriages Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Registration of Births, Deaths, and Marriages Act, 1899-1965.
