



Adoption Amendment (Adoption Service Providers) Regulation 2005

under the

Adoption Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Adoption Act 2000*.

REBA MEAGHER, M.P.,
Minister for Community Services

Explanatory note

The object of this Regulation is to amend the *Adoption Regulation 2003* with respect to:

- (a) the application forms to be used by applicants for accreditation as an adoption service provider, and
- (b) the classes of adoption services that may be accredited, and
- (c) the accreditation standards to be met in relation to applications for accreditation, and
- (d) the conditions to be observed by accredited adoption service providers.

This Regulation is made under the *Adoption Act 2000*, including section 208 (the general power to make regulations) and sections 12, 13 and 17.

This Regulation adopts the *NSW Adoption Standards*, published in the Gazette on 1 July 2005 by the Director-General of the Department of Community Services.

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Clause 1 Adoption Amendment (Adoption Service Providers) Regulation 2005

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1 Name of Regulation

This Regulation is the *Adoption Amendment (Adoption Service Providers) Regulation 2005*.

2 Commencement

This Regulation commences on 1 July 2005.

3 Amendment of Adoption Regulation 2003

The *Adoption Regulation 2003* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] The whole Regulation (except clause 5 and the expression “private foster agency” in clause 35 (2))

Omit “agency” and “agencies” wherever occurring.

Insert instead “service provider” and “service providers”, respectively.

[2] Clause 3 Definitions

Insert in alphabetical order:

NSW Adoption Standards means the document prepared by the Director-General under the title *NSW Adoption Standards*, as published in the Gazette on 1 July 2005.

[3] Clause 5 Saving of existing private adoption agencies

Omit “agency” from clause 5 (1) (a). Insert instead “service provider”.

[4] Clause 5 (8)

Insert after clause 5 (7):

- (8) The accreditation of an adoption service provider that arises by virtue of an accreditation order under this clause ceases to have effect at the end of 30 June 2008.

[5] Clauses 5A–5E

Insert after clause 5:

5A Applications for accreditation

- (1) An application for accreditation as an adoption service provider must be in a form approved by the Director-General.
- (2) Without limiting section 12 (3) of the Act, any document or information required by any such form is taken to be required by the Director-General under that subsection.

5B Adoption services that may be accredited

For the purposes of section 13 (2) (a) of the Act, the classes of adoption services that may be accredited are as follows:

- (a) domestic adoption services, being adoption services that are not intercountry adoption services,
- (b) intercountry adoption services, being adoption services that are provided in connection with the adoption of

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children who are not Australian citizens and who have been brought into Australia, or are proposed to be brought into Australia:

- (i) for the purpose of their being adopted under the laws of Australia, or
- (ii) for the purpose of their adoptions under the laws of a foreign country being recognised under the laws of Australia.

5C Accreditation standards

For the purposes of section 13 (2) (b) of the Act, the standards to be complied with by an applicant for accreditation are the NSW Adoption Standards.

5D Conditions of accreditation

For the purposes of section 17 (1) (a) of the Act, the conditions to which accreditation as an adoption service provider is subject include:

- (a) compliance with the NSW Adoption Standards, and
- (b) the conditions set out in Schedule 1.

5E Preservation of records of former accredited service providers

As soon as practicable after it ceases to be accredited as an adoption service provider or otherwise ceases to provide adoption services, an organisation must ensure that all records kept by it for the purposes of the Act are lodged with the Director-General.

Maximum penalty: 25 penalty units.

[6] Schedule 1

Insert at the end of the Regulation:

Schedule 1 Conditions of accreditation for adoption service providers

(Clause 5D)

1 Definition

In this Schedule, a reference to a *member of staff* of an adoption service provider includes a reference to:

- (a) a member of its governing body, and

- (b) any person whom it employs in connection with its provision of adoption services, and
- (c) any person whom it engages (whether on a paid or voluntary basis) to assist it in the provision of adoption services, and
- (d) any person whom it engages (whether on a paid or voluntary basis) to provide adoption services on its behalf.

2 Negotiations for intercountry adoption services

- (1) On being accredited, an adoption service provider must give an undertaking to the Director-General to the effect that, during the period of its accreditation, it will not:
 - (a) enter into any agreement with any authority of a foreign country for the establishment of arrangements to facilitate the adoption of children from that country by persons who reside, or are domiciled, in New South Wales, or
 - (b) participate in negotiations for entering into such an agreement.
- (2) Subclause (1) does not prevent an adoption service provider from entering into an agreement with any such authority for the adoption of children in accordance with arrangements that have been duly established between Australia and the foreign country concerned.

3 Provision of domestic adoption services in NSW

An adoption service provider that is accredited to provide domestic adoption services must not, in New South Wales, provide domestic adoption services to persons who neither reside, nor are domiciled, in New South Wales.

4 Provision of intercountry adoption services in NSW and abroad

An adoption service provider that is accredited to provide intercountry adoption services in relation to a specified foreign country must not, in New South Wales, provide intercountry adoption services to persons who neither reside, nor are domiciled, in either New South Wales or the country so specified.

5 Sharing of accommodation with other associations and organisations

- (1) An adoption service provider that is accredited to provide domestic adoption services must not share premises with any association of adoptive parents or any organisation established to represent adoptive parents.

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- (2) An adoption service provider that is accredited to provide intercountry adoption services must not share premises with:
- (a) any association of adoptive parents, or
 - (b) any organisation that has among its objects the object of soliciting aid for, or providing aid to, persons or organisations in a foreign country.

6 Appointment of principal officer

An adoption service provider must not appoint a person as its principal officer unless the person:

- (a) has obtained a university degree, whether in Australia or overseas, and
- (b) has, within the previous 10 years, had experience for a period of, or for periods totalling, 5 years (whether on a full or part-time basis) in the provision of adoption services, family services or out-of-home care.

7 Appointment of acting principal officer

An adoption service provider must not appoint any person to act in the office of principal officer unless the person:

- (a) has obtained a university degree, whether in Australia or overseas, and
- (b) has, within the previous 5 years, had experience for a period of, or for periods totalling, 2 years (whether on a full or part-time basis) in the provision of adoption services, family services or out-of-home care.

8 Code of conduct

An adoption service provider for which a code of conduct is approved in accordance with the NSW Adoption Standards must ensure that its staff are made aware of, and comply with, that code.

9 Undertakings

An adoption service provider must comply with any undertakings it gives to the Director-General, including undertakings given pursuant to its application for accreditation and undertakings given pursuant to the conditions of its accreditation.

10 Provision of information to prospective adoptive parents

An adoption service provider must provide each prospective adoptive parent with whom it deals with a document that sets out the criteria against which prospective adoptive parents are assessed as to their suitability as adoptive parents.

11 Fees

An adoption service provider must ensure that its scale of fees is made public, either by means of a notice displayed in each of the premises from which it provides adoption services or else by means of brochures made available at those premises.

12 Entry to premises and inspection of records

An adoption service provider must allow the Director-General, and any public servant authorised by the Director-General in that regard:

- (a) to enter any premises from which it provides adoption services, and
- (b) to inspect such of its records as relate to the provision of adoption services,

and must provide the Director-General, and any such public servant, with such assistance as is reasonably necessary for the purposes of any such inspection.

13 Provision of reports to Director-General

An adoption service provider must provide the Director-General with the following documents:

- (a) a copy of its annual report, to the extent to which that report deals with its provision of adoption services,
- (b) such reports with respect to its provision of adoption services as the Director-General may from time to time require,
- (c) a copy of any report that, pursuant to any law, it is required to provide to any authority (including an authority of a foreign country) in relation to its provision of adoption services.

14 Conflicts of interest

- (1) As soon as practicable after it becomes aware that any member of its staff has an interest, or is associated with anyone who has an interest, that could affect that member's conduct with respect to

its provision of adoption services, an adoption service provider must cause written notice of that fact to be given to the Director-General.

- (2) If as a consequence of such a notice the Director-General gives any written direction to the adoption service provider as to how it should deal with the matter, the adoption service provider must take all reasonable steps to ensure that the direction is complied with.

15 Appointment of foreign representatives

An adoption service provider that is accredited to provide intercountry adoption services must not appoint any person to act on its behalf in relation to adoption proceedings in a foreign country unless the Director-General has approved the proposed appointment.

16 Notification of certain changes

- (1) An adoption service provider must notify the Director-General of any change in the address from which it operates within 14 days after the change occurs.
- (2) An adoption service provider must notify the Director-General of the following particulars within 28 days after the change occurs:
 - (a) any change in the terms of the documents that govern its constitution,
 - (b) any change in the terms of any trust that it has established in connection with its provision of adoption services.

17 Notification of inability to comply with conditions of accreditation

An adoption service provider that becomes unable to comply with the conditions of its accreditation must notify the Director-General of that fact as soon as practicable after that fact becomes apparent.