



New South Wales

Adoption Amendment Regulation 2014

under the

Adoption Act 2000

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

GABRIELLE UPTON, MP
Minister for Family and Community Services

Explanatory note

The object of this Regulation is to make various amendments to the *Adoption Regulation 2003* that are consequential on the *Child Protection Legislation Amendment Act 2014* (the **amending Act**) and certain other amendments.

This Regulation:

- (a) prescribes the adoption services that may be specified by the Children's Guardian as adoption services that an accredited adoption service provider may provide, and
- (b) makes provision with respect to the administration of accreditation and transfer of accreditation of accredited adoption service providers by the Children's Guardian and the integration of such accreditation with the accreditation framework with respect to designated agencies under the *Children and Young Persons (Care and Protection) Regulation 2012*, and
- (c) makes provision with respect to the appointment of the principal officers of accredited adoption service providers, and
- (d) enables the Children's Guardian to inspect case records and certain other documents for the purposes of exercising the Children's Guardian's functions with respect to the accreditation and monitoring of adoption service providers and under the *Child Protection (Working with Children) Act 2012*, and
- (e) prescribes the decisions of the Children's Guardian relating to accreditation that are reviewable decisions for the purposes of Chapter 10 of the *Adoption Act 2000*, and
- (f) updates provisions that contain references to the Director-General (the references are required by an administrative arrangements order under the *Constitution Act 1901* to be construed as references to the Secretary), and
- (g) makes provision with respect to the assessment of the suitability of persons (including authorised carers of children) to be approved and selected to adopt children under the *Adoption Act 2000*, including requirements to obtain any relevant information from certain designated agencies under the *Children and Young Persons (Care and Protection) Act 1998*, and
- (h) makes provision of a transitional nature with respect to the application of provisions inserted in the *Adoption Act 2000* by the amending Act relating to adoption plans.

This Regulation is made under the *Adoption Act 2000*, including sections 11 (1) (b), 12, 45 (1) (a), 45D, 45E, 45F, 193 (1) (i), 208 (the general regulation-making power) and 212 and clause 1 of Schedule 3.

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1 Name of Regulation

This Regulation is the *Adoption Amendment Regulation 2014*.

2 Commencement

This Regulation commences on 29 October 2014 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Adoption Regulation 2003

[1] Clause 3 Definitions

Insert in alphabetical order:

accredited adoption service provider check means a check with an accredited adoption service provider as to a person's suitability to adopt a child.

appointment decision record —see clause 5ZA.

approved identity information means documents that can be used to establish the identity of a person or of persons of a specified class that are of a kind approved by the Children's Guardian by an order in published in the Gazette.

Community Services check means a check of such information held by the Department as is determined by the Secretary.

designated agency means a designated agency within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*.

designated agency check means a check with a designated agency as to a person's suitability to care for a child or to reside at a home where care is provided to a child.

[2] Clause 3, definition of "NSW Adoption Standards"

Omit the definition.

[3] Part 2

Omit the Part. Insert instead:

Part 2 Adoption service providers

Division 1 Accreditation

5 Adoption services that may be specified by Children's Guardian

For the purposes of section 12 (1) of the Act, the Children's Guardian may specify either or both of the following as adoption services that may be provided by an accredited adoption service provider:

- (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 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.

5A Application for accreditation

- (1) A charitable or non-profit organisation (an *applicant*) may apply in writing to the Children's Guardian for:
 - (a) accreditation as an accredited adoption service provider to provide domestic adoption services or intercountry adoption services, or both, or

- (b) the renewal of accreditation as an accredited adoption service provider for such services.
- (2) An application is to:
 - (a) be made in the form approved by the Children's Guardian, and
 - (b) be accompanied by such information as the Children's Guardian may reasonably require to assist in the determination of the application, and
 - (c) specify the full name of the individual proposed to be the applicant's principal officer on accreditation, and
 - (d) specify the corporate and business name and ABN (if any) of the applicant, and
 - (e) specify the street and postal address of the applicant, and
 - (f) specify the telephone number and email address (if any) of the applicant.
- (3) The Children's Guardian may require an applicant to furnish to the Children's Guardian such further information as the Children's Guardian may reasonably require in order to assess the applicant's suitability to be an accredited adoption service provider.
- (4) Any information that is required under subclause (3) must be furnished to the Children's Guardian on or before the reasonable date specified by the Children's Guardian by notice in writing.

5B Taking over an application for accreditation

- (1) An application made by an organisation for accreditation as an accredited adoption service provider may be taken over by another organisation only in accordance with this clause.
 - (2) The Children's Guardian may authorise an organisation (*the successor*) to take over an application for accreditation as an accredited adoption service provider made by another organisation (*the predecessor*), by notice in writing given to the successor.
 - (3) The Children's Guardian must not authorise a successor to take over an application unless:
 - (a) the predecessor has requested that action, and
 - (b) the successor has given the Children's Guardian a written undertaking that it will operate in the manner proposed in the application or as otherwise agreed in writing by the successor and the Children's Guardian, and
 - (c) the successor has, by notice in writing given to the Children's Guardian, specified the full name of the individual proposed to be the successor's principal officer on accreditation.
- Note.** The process of accreditation of an organisation that takes over an application under this clause may also be subject to conditions imposed under clause 5V (Conditions on accreditation and process of accreditation).
- (4) A copy of the notice under subclause (2) must be given to the predecessor, if the predecessor continues to exist, and, on and from receipt of the notice, the predecessor is taken not to be an applicant for accreditation as an accredited adoption service provider.
 - (5) Unless prohibited by or under any Act, the Children's Guardian may disclose to the successor any information in his or her possession regarding the predecessor.

- (6) A condition imposed on the process of accreditation in respect of an application for accreditation continues to apply to the process despite the application being taken over under this clause.
- (7) An adoption service provider accredited by way of an application under this clause must not contravene an undertaking given by the provider under subclause (3) (b).

5C Deferral of determination of application to renew accreditation

- (1) If an accredited adoption service provider has applied for the renewal of an accreditation, the Children's Guardian may, by notice in writing to the provider, defer determining the application.
- (2) The deferral has effect until a notice given under clause 5E in respect of the application takes effect.
- (3) The deferral does not affect any requirement made under clause 5A (3) to furnish information in respect of the application, whether the requirement was imposed before or during the deferral.
- (4) If the Children's Guardian defers determining the application for 6 months or more from the date the deferral took effect, the Children's Guardian must inform the Minister in writing of the deferral.

Note. The accreditation period of an accredited adoption service provider whose application for renewal of accreditation has been deferred is extended under clause 5S until the application is determined.

5D Determination of application for accreditation

- (1) The Children's Guardian may grant accreditation as an accredited adoption service provider to an applicant and specify the adoption services that the accredited adoption service may provide if, in the opinion of the Children's Guardian, the applicant wholly or substantially satisfies the accreditation criteria referred to in section 13 of the Act.
- (2) The Children's Guardian may come to the opinion that an applicant satisfies a particular accreditation criterion if a body, recognised by the Children's Guardian for the purposes of this subclause, has determined that the applicant meets a standard or other criterion recognised by the Children's Guardian for the purposes of this subclause in respect of the accreditation criterion.
- (3) The Children's Guardian may grant the following accreditation:
 - (a) if the applicant provided adoption services in accordance with the Act and the regulations at any time during the period commencing 12 months before the application was made and ending when the application is determined—**full accreditation**,
 - (b) in any other case—**provisional accreditation**.
- (4) The Children's Guardian may at any time following accreditation vary the specification of the adoption services that may be provided by the accredited adoption service provider by notice in writing given to the provider.

Note. Accreditation is subject to conditions—see clause 5V.

5E Accreditation notice

- (1) As soon as reasonably practicable after determining an application for accreditation, the Children's Guardian must inform the applicant of the following by notice in writing:
 - (a) the decision,

- (b) when the decision takes effect,
 - (c) if accreditation is granted—whether full or provisional accreditation is granted,
 - (d) if accreditation is granted—the adoption services that may be provided on accreditation,
 - (e) if accreditation is granted—any conditions imposed in relation to the accreditation,
 - (f) the reasons for the decision,
 - (g) how the applicant may apply for a review of the decision.
- (2) If an applicant is granted accreditation but did not wholly satisfy the accreditation criteria, the notice must also specify the accreditation criteria that were not wholly satisfied and the reasons for the Children’s Guardian’s opinion that the criteria were not wholly satisfied.

5F Public information about accreditations

- (1) The Children’s Guardian is to publish the following information on a website maintained by the Children’s Guardian as soon as practicable after granting accreditation to an organisation:
- (a) the corporate name, business name and ABN (if any) of the accredited adoption service provider,
 - (b) whether the provider is fully or provisionally accredited,
 - (c) the adoption services that may be provided by the provider,
 - (d) the conditions imposed on the accreditation,
 - (e) the period of accreditation,
 - (f) the street and postal address of the principal office of the provider,
 - (g) the general telephone number and email address (if any) of the provider,
 - (h) the full name of the principal officer of the provider.
- (2) The Children’s Guardian is to keep the information referred to in subclause (1) up to date.

5G Children’s Guardian may set aside decision not to accredit

- (1) If the Children’s Guardian is satisfied that an application for accreditation as an accredited adoption service provider should not have been refused, the Children’s Guardian may withdraw the refusal under clause 5E and issue a notice granting accreditation.
- (2) The notice may provide that accreditation is taken to have had effect on and from the date the previous decision not to accredit took effect, or such later date as may be specified in the notice.

5H Requirements where only provisional accreditation granted

- (1) An organisation granted provisional accreditation must notify the Children’s Guardian in writing when the organisation first provides adoption services after being accredited.
- (2) The notice must be given by the next working day after adoption services are first provided.

5I Progression from provisional accreditation to full accreditation

- (1) A notice given under clause 5H is taken to be an application under clause 5A for full accreditation.
- (2) The Children's Guardian may, by notice in writing, waive any requirement imposed by or under clause 5A in respect of such an application if the Children's Guardian is satisfied that the requirement was met by the adoption service provider in the course of being granted provisional accreditation.
- (3) Without limiting clause 5A (3), the Children's Guardian may require the applicant to furnish to the Children's Guardian such information as to the applicant's practice and other matters as the Children's Guardian may reasonably require in order to assess the applicant's suitability to be granted full accreditation.
- (4) Any information that is required under subclause (3) must be furnished to the Children's Guardian on or before the reasonable date specified by the Children's Guardian by notice in writing.
- (5) The Children's Guardian must not determine the application within 12 months of the applicant first providing adoption services after being granted provisional accreditation.
- (6) The provisional accreditation of an adoption service provider taken to have made an application under this clause ceases on the determination of the application taking effect.

Note. Clause 5Q provides for the accreditation period for provisional accreditation to be 3 years.

5J Accreditation criteria must be wholly satisfied

- (1) An adoption service provider granted accreditation under this Regulation that did not wholly satisfy the accreditation criteria that applied to the adoption service provider in respect of its application for accreditation must wholly satisfy the accreditation criteria:
 - (a) in the case of an adoption service provider granted full accreditation—within 12 months of its accreditation, or
 - (b) in the case of an adoption service provider granted provisional accreditation—within 12 months of the date the provider first provided adoption services after its accreditation.
- (2) The Children's Guardian may, by notice in writing given to the adoption service provider, specify a shorter period for the purposes of subclause (1) (a) or (b).

Division 2 Transfer of accreditation

5K Application of Division

The accreditation of an adoption service provider may be transferred only in accordance with this Division.

5L Application for transfer of accreditation

- (1) An application for approval to transfer accreditation from an accredited adoption service provider (*the transferor*) to another organisation (*the transferee*) that is not an accredited adoption service provider may be made by a transferor to the Children's Guardian in the form approved by the Children's Guardian.

- (2) The Children's Guardian may require a transferor or transferee to furnish to the Children's Guardian such further information as the Children's Guardian may reasonably require in order to determine the application.
- (3) Any information that is required under subclause (2) must be furnished to the Children's Guardian on or before the reasonable date specified by the Children's Guardian by notice in writing.
- (4) Unless prohibited by or under any Act, the Children's Guardian may disclose any information about the transferor to the transferee.

5M Transfer guidelines

- (1) The Children's Guardian may issue written guidelines in respect of the exercise of functions under this Division including, but not limited to, the following:
 - (a) the granting of approvals,
 - (b) the imposition of conditions on the process of accreditation and on accreditations.
- (2) Without limiting subclause (1), the Children's Guardian is to have regard to the following matters in carrying out functions under this Division:
 - (a) whether, for the purposes of continuity of adoption services, the transferor and transferee have made all reasonable efforts to vest in the transferee the assets, rights and liabilities related to those adoption services that are vested in the transferor,
 - (b) whether, for the purposes of continuity of adoption services, the transferor and transferee have made all reasonable efforts to provide for individuals employed by the transferor for the purposes of the provision of those adoption services to be employed by the transferee,
 - (c) whether a proposed transfer will prejudice any legal proceedings or proposed legal proceedings to which the transferor is, or is likely to become, a party and whether the transferor and transferee have taken all reasonable steps to ensure that this does not occur.

5N Transfer of accreditation

- (1) The Children's Guardian may, by notice in writing, approve or refuse the application to transfer accreditation.
- (2) The Children's Guardian must not approve the application if:
 - (a) the transferor and the transferee are in contravention of any guidelines issued by the Children's Guardian under clause 5M that apply in respect of the application, and
 - (b) the transferor is in contravention of any condition of its accreditation, and
 - (c) the transferor and the transferee are in contravention of any condition on the process of accreditation under this clause.
- (3) The Children's Guardian is to consult with the Department and the Ombudsman before determining the application and, in the case of a transferee which will be providing intercountry adoption services, the Commonwealth Central Authority within the meaning of the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998* of the Commonwealth.

5O When transfer takes effect

- (1) A transfer of accreditation approved under clause 5N takes effect on the later of the following days:
 - (a) when the transferee accepts the transfer by notice in writing given to the Children's Guardian,
 - (b) on the date specified in the Children's Guardian's approval.
- (2) If the transferor ceases to exist before the transfer takes effect, the transfer is taken to have had effect when the transferor ceased to exist.
- (3) When a transfer takes effect:
 - (a) the transferor ceases to be accredited as an accredited adoption service provider, and
 - (b) the transferee is accredited as an accredited adoption service provider, and
 - (c) the transferee's accreditation is taken to be the accreditation granted to the transferor.

5P Consequences of transfer of accreditation

- (1) This clause applies to an accreditation that has been transferred under clause 5N.
- (2) The specification of adoption services that may be provided by the transferor that applied before the transfer took effect applies to the transferee's accreditation, subject to any variation of the specification by the Children's Guardian pursuant to this Regulation.
- (3) The accreditation period that applied to the transferor applies to the transferee and is taken to have started on the date the transferor was accredited.
- (4) Any condition on the transferor's accreditation that was in force immediately before the transfer took effect applies to the transferee's accreditation, subject to any variation or revocation of conditions by the Children's Guardian pursuant to this Regulation.
- (5) For the purposes of clause 5W, the transferee is taken to have satisfied the accreditation criteria that the transferor satisfied to be accredited.
- (6) The transferee must adopt the policies, procedures and practice of the transferor that, immediately before the transfer, related to the predecessor's provision of adoption services.
- (7) Any act, matter or thing done by the transferor immediately before the transfer with respect to the provision of adoption services that the transferor may provide continues to have effect in relation to the continued provision of the adoption services concerned by the transferee.

Division 3 Accreditation administration

5Q Form and accreditation period

- (1) An accreditation of an adoption service provider is to be in such form as the Children's Guardian may approve.
- (2) The Children's Guardian may grant an accreditation period of 1, 3 or 5 years to an accredited adoption service provider being granted full accreditation if the provider did not hold provisional accreditation immediately before being granted full accreditation.

- (3) The Children's Guardian may grant an accreditation period of 1 or 3 years to an accredited adoption service provider being granted full accreditation if the provider held provisional accreditation immediately before being granted full accreditation.
- (4) The Children's Guardian may grant an accreditation period of 3 years to an accredited adoption service provider being granted provisional accreditation.
- (5) The Children's Guardian may vary the periods referred to in subclauses (2)–(4) so as to grant an accreditation period to an adoption service provider that is also a designated agency that is commensurate to the accreditation period granted to the designated agency under the *Children and Young Persons (Care and Protection) Regulation 2012* and ending on the date on which that accreditation period ends.
- (6) The date the accreditation period of an accredited adoption service provider ends is not extended by a suspension of accreditation under clause 5W.

5R Accreditation extended after adoption service provider becomes a designated agency

- (1) The Children's Guardian may grant an extension of the accreditation period of an accredited adoption service provider which becomes a designated agency under the *Children and Young Persons (Care and Protection) Regulation 2012* after being accredited as a provider so that it ends on the date on which its accreditation period as a designated agency ends.
- (2) The date the accreditation period of an accredited adoption service provider ends is not extended by a suspension of accreditation under clause 5W.

5S Accreditation extended on deferral until application to renew determined

- (1) This clause applies to an accredited adoption service provider that has made an application to renew its accreditation if the determination of the application is deferred under clause 5C.
- (2) The accreditation period is extended until the notice given under clause 5E in respect of the application takes effect.

5T Accreditation extended until decision not to re-accredit takes effect

- (1) This clause applies to an accredited adoption service provider that has had its accreditation renewal application refused and where the decision to refuse the application has not taken effect.
- (2) The accreditation of the adoption service provider ends when the decision takes effect.

5U Accreditation extended to accommodate changes

The Children's Guardian may, by notice in writing given to an accredited adoption service provider, extend the accreditation period of the provider to the date specified in the notice if the Children's Guardian is of the opinion that changes or proposed changes to the administration of adoption services under the Act or the administration of out-of-home care under the *Children and Young Persons (Care and Protection) Act 1998* make the extension appropriate.

5V Conditions on accreditation and process of accreditation

- (1) An accreditation is subject to the conditions set out in Schedule 1.
- (2) The Children's Guardian may impose such other reasonable conditions as the Children's Guardian sees fit on an accreditation, and may vary or revoke such conditions, by notice in writing given to the accredited adoption service provider.
- (3) The Children's Guardian may impose such reasonable conditions as the Children's Guardian sees fit on the process of accreditation (including accreditation by way of a transfer under clause 5N), and may vary or revoke such conditions, by notice in writing given to the applicant.
- (4) If an accreditation is transferred, a copy of the notice given under subclause (3) is to be given to the transferee.
- (5) An accredited adoption service provider that becomes unable to comply with the conditions of accreditation or process of accreditation must notify the Children's Guardian of that fact as soon as practicable after that fact becomes apparent.
- (6) A condition imposed under this clause may authorise any matter or thing to be from time to time determined or applied by any specified person or body.

Note. Contravention of a condition of accreditation is not an offence but is grounds for shortening the accreditation period, or suspending or cancelling the accreditation, of an accredited adoption service provider.

5W Accreditation—shortening, suspension and cancellation

- (1) The Children's Guardian may, by notice in writing given to an accredited adoption service provider:
 - (a) shorten the accreditation period of the provider to a date specified in the notice, or
 - (b) suspend the accreditation of the provider for the period specified in the notice or until a specified matter has been completed, or
 - (c) cancel the accreditation of the provider from the date specified in the notice.
- (2) The Children's Guardian may give a notice under subclause (1) to an accredited adoption service provider if the Children's Guardian is satisfied of any of the following:
 - (a) that the provider made a statement or furnished information in connection with the administration of the Act that the provider knew to be false or misleading in a material particular,
 - (b) that the principal officer of the provider made a statement or furnished information in connection with the administration of the Act that the principal officer knew to be false or misleading in a material particular,
 - (c) that the provider failed to comply with any condition of accreditation imposed on the provider's accreditation,
 - (d) that the provider failed to comply with any obligation or restriction imposed on the provider by or under the Act,
 - (e) that the principal officer of the provider failed to comply with any obligation or restriction imposed on the principal officer by or under the Act,

- (f) that the provider failed, while the provider had been accredited less than 12 months, to substantially satisfy the accreditation criteria that applied to the provider in respect of its application for accreditation,
 - (g) that the provider failed, at any time after the provider had been accredited for at least 12 months, to satisfy the accreditation criteria that applied to the provider in respect of its application for accreditation.
- (3) If the Children's Guardian is satisfied that a notice under subclause (1) should not have been given to an accredited adoption service provider, the Children's Guardian may, by notice in writing given to the provider:
- (a) withdraw the notice and reinstate the accreditation, or
 - (b) in the case of a shortening of an accreditation period, reinstate the accreditation period of the accredited adoption service provider,
- and the accreditation is taken to have continued in existence as if the notice under subclause (1) had not been given.

5X Accredited adoption service providers with suspended accreditations

- (1) Subject to subclause (2), an accredited adoption service provider remains an accredited adoption service provider while the provider's accreditation is suspended.
- (2) While an accredited adoption service provider's accreditation is suspended, the adoption service provider is not an accredited adoption service provider for the purposes of section 11 of the Act.
- (3) The Children's Guardian may remove the suspension of an accredited adoption service provider's accreditation at any time by notice in writing given to the provider.

5Y Accredited service providers with shortened accreditation periods

- (1) The Children's Guardian may, by notice in writing given to an accredited adoption service provider, reduce the period by which the provider's accreditation period has been shortened under clause 5W.
- (2) For the removal of doubt, the shortening of an accreditation period under clause 5W does not prevent the accreditation period from being extended under any other provision of this Part.

5Z Cessation of provision of adoption services and preservation of records of former accredited service providers

- (1) An accredited adoption service provider must give the Secretary and the Children's Guardian notice in writing as soon as practicable after it ceases to provide adoption services that the Children's Guardian has specified it may provide.
- (2) 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 Secretary.

Maximum penalty: 25 penalty units.

[4] **Part 2A**

Insert before Part 3:

Part 2A Principal officers

5ZA Appointment of principal officer

- (1) The governing body of an organisation that is accredited as an adoption service provider must appoint a person as the principal officer of the accredited adoption service provider.
- (2) The governing body must not appoint a person as principal officer unless it has determined that the person is a suitable person to be a principal officer having regard to the matters referred to in subclause (3) and any other matters it considers relevant.
Note. The *Child Protection (Working with Children) Act 2012* also contains requirements concerning the appointment of principal officers.
- (3) Before deciding whether a person is a suitable person to be a principal officer, the governing body must:
 - (a) obtain approved identity information with respect to the person, and
 - (b) ensure that any applicable requirements of the *Child Protection (Working with Children) Act 2012* have been complied with, and
 - (c) conduct or obtain a nationwide criminal record check of the person, and
 - (d) obtain a Community Services check of the person, and
 - (e) obtain references from at least 2 persons concerning the person's suitability to be appointed as a principal officer.
- (4) As soon as practicable after deciding to appoint a person as a principal officer, the governing body must record in writing its decision to do so and the date (not being earlier than the date on which the decision is recorded) on which the appointment is to take effect (the **appointment decision record**).
- (5) The appointment decision record must state that the governing body has complied with subclause (3).
- (6) Any act of a principal officer is not to be called into question merely because of any failure of a governing body to comply with subclause (4) or any other defect in the principal officer's appointment.

5ZB Vacancies in office of principal officer

The governing body of an accredited adoption service provider must appoint a person to fill a vacancy in the office of principal officer as soon as practicable after the occurrence of the vacancy.

5ZC Acting principal officer

- (1) The governing body, or a person authorised by the governing body to act on its behalf, must appoint a person to act in the office of the principal officer during the illness or absence of the principal officer or during a vacancy in the office of the principal officer (an **acting principal officer**).
- (2) Clause 5ZA (3) (other than paragraph (a)) does not apply to or in respect of the appointment of a person as an acting principal officer.
- (3) A person must not be appointed as an acting principal officer unless the person has a working with children check clearance that is in force or has made a

current application for such a clearance under the *Child Protection (Working with Children) Act 2012*.

- (4) A person may not hold office as an acting principal officer for more than 3 months unless the governing body of the accredited adoption service provider has complied with the requirements of clause 5ZA (3) (c)–(e) and confirmed that the person is a suitable person to hold office as a principal officer having regard to those matters.

5ZD Notifications relating to principal officer and acting principal officers

- (1) An accredited adoption service provider must give the Children’s Guardian and the Secretary a copy of the appointment decision record as soon as practicable after a person is appointed to the office of principal officer.
- (2) As soon as practicable after a vacancy in the office of principal officer occurs, the accredited adoption service provider must give the Children’s Guardian and the Secretary written notice of the fact of that vacancy, the name of the person appointed as acting principal officer and the date of the appointment.
- (3) The accredited adoption service provider must give the Children’s Guardian and the Secretary written evidence that it has complied with the requirements of clause 5ZA (3) (c)–(e) and confirmed that the person is a suitable person to hold office as a principal officer having regard to those matters if a person holds office as acting principal officer for more than 3 months.

[5] Part 3, heading

Insert “**other than step parents, relatives or authorised carers of a child in out-of-home care**” after “**parents**”.

[6] Clause 5ZE

Insert before clause 6:

5ZE Application of Part

This Part applies to and in respect of the selection of persons as adoptive parents under Part 3 of the Act.

[7] Clause 7 Information to be provided to persons submitting expressions of interest

Insert at the end of clause 7 (1):

- (g) applying to be an authorised carer of a child or young person in out-of-home care.

[8] Clause 8

Omit the clause. Insert instead:

8 Adoptive parent education and training

- (1) The Secretary or principal officer of an accredited adoption service provider may, at any time following submission of an expression of interest to adopt, require the person who submitted it to attend an adoptive parent education and training course provided by the Secretary or that principal officer or the principal officer of another accredited adoption service provider.
- (2) Costs of attendance at courses are to be at the person’s expense.

[9] Clause 9A

Insert after clause 9:

9A Power to require information

The relevant decision-maker may require a person who has submitted an application to adopt a child to provide such information as is reasonably required by the decision-maker to assess the suitability of the person to be approved or selected to adopt a child.

[10] Clause 11A

Insert after clause 11:

11A Suitability checks

- (1) The relevant decision-maker must not assess an applicant as suitable to be approved to adopt a child unless the relevant decision-maker has obtained or conducted the following in respect of an applicant:
 - (a) approved identity information,
 - (b) if the relevant decision-maker reasonably believes that a designated agency has material knowledge about the applicant—a designated agency check from that agency,
 - (c) if the relevant decision-maker reasonably believes that an accredited adoption service provider has material knowledge about the applicant—an accredited adoption service provider check from that provider,
 - (d) a nationwide criminal record check,
 - (e) a Community Services check,
 - (f) references from at least 2 persons concerning the applicant's suitability to adopt a child.

Note. Section 45 (2) of the Act requires certain additional checks to be conducted under the *Child Protection (Working with Children) Act 2012*.

- (2) The relevant decision-maker may obtain further information, or conduct further checks, in relation to the applicant at any time before the making of an adoption order in relation to the application.
- (3) The relevant decision-maker is to obtain or conduct the following in respect of any person (other than a child in out-of-home care) who resides at the applicant's home for a period of 3 or more weeks after the application is made and before it assesses the applicant as suitable to be approved to adopt a child or who takes up residence after the assessment and before the adoption order is made:
 - (a) approved identity information,
 - (b) if the relevant decision-maker reasonably believes that a designated agency has material knowledge about the person—a designated agency check,
 - (c) if the relevant decision-maker reasonably believes that an accredited adoption service provider has material knowledge about the person—an accredited adoption service provider check from that provider,
 - (d) a nationwide criminal record check of the person (if the person is 16 or more years of age),
 - (e) a Community Services check (if the person is 16 or more years of age).

Note. Section 45 (2) of the Act requires certain additional checks to be conducted under the *Child Protection (Working with Children) Act 2012*.

- (4) The relevant decision-maker may obtain or conduct a nationwide criminal record check of a person (other than a child in out-of-home care) who resides at the applicant's home for a period of 3 or more weeks who is 14 or 15 years of age at any time between the making of the application and the making of the adoption order.
- (5) The relevant decision-maker may obtain further information, or conduct further checks, in relation to a person who resides at the applicant's home as referred to in subclause (3) or (4) at any time before the making of an adoption order in relation to the application.
- (6) The relevant-decision-maker may make such other inquiries with respect to the applicant or a person who resides at the applicant's home as referred to in subclause (3) or (4) as the decision-maker considers appropriate, including any check relating to the employment or other activities of the applicant or person.
- (7) If an application to adopt a child is made to the principal officer of a service provider that is also a designated agency and the applicant has applied to be authorised by the designated agency as an authorised carer, the relevant-decision maker may use any authorised carer suitability check obtained or conducted in relation to the applicant (and any person residing at the applicant's home) in order to comply with the requirements of this clause.
- (8) If, in conjunction with the application to adopt a child made to a relevant decision-maker, the applicant has applied to be authorised by a designated agency as an authorised carer, the relevant-decision maker may obtain from that designated agency information relating to any authorised carer suitability check obtained or conducted by the designated agency in relation to the applicant (and any person residing at the applicant's home) in order to comply with the requirements of this clause and may share any information it has obtained in complying with this clause with that agency.
- (9) A designated agency has **material knowledge** about a person for the purposes of subclauses (1) (b) and (3) (b) if the designated agency:
 - (a) has authorised the person as a carer under the *Children and Young Persons (Care and Protection) Act 1998*, or
 - (b) has received an application from the person to be authorised as a carer, or
 - (c) has known the person to reside at the home of such a carer or applicant.
- (10) An accredited adoption service provider has **material knowledge** about a person for the purposes of subclauses (1) (c) and (3) (c) if the accredited adoption service provider:
 - (a) has received an expression of interest from the person in adopting a child, or
 - (b) has received an application to adopt a child from the person, or
 - (c) has known the person to reside at the home of a person submitting such an expression of interest or application.
- (11) In this clause:

authorised carer suitability check means approved identity information, a designated agency check, a nationwide criminal record check or Community Services check obtained or conducted in accordance with the *Children and Young Persons (Care and Protection) Regulation 2012* for the purposes of deciding whether to grant an authorisation as an authorised carer.

[11] Clause 12 Criteria for assessment of applicants

Omit “and the person’s criminal history (if any)” from clause 12 (h).

[12] Clause 12 (j)

Omit the paragraph. Insert instead:

- (j) any information obtained or check conducted under clause 11A.

[13] Clause 12 (l)

Insert at the end of the clause:

- (l) without limiting paragraph (k), if the person is, or at any time has been, an authorised carer—the person’s compliance with any applicable provisions of the *Children and Young Persons (Care and Protection) Act 1998* and the regulations made under that Act.

[14] Clause 13 Assessment of applicants for adoption in NSW

Insert “and any information obtained or check conducted under clause 11A” after “Schedule 1” in clause 13 (3A).

[15] Clause 13 (4)

Omit subclause (4). Insert instead:

- (4) In assessing the suitability of applicants to adopt, the relevant decision-maker must take into account whether any other person who resides at the home of the applicant is of good repute and is a fit and proper person to associate with a child, having regard to the information obtained and checks conducted in relation to the person under clause 11A.

[16] Clause 14 Notification of assessment of applicants for adoption in NSW

Insert “, accredited adoption service provider check, Community Service check, designated agency check” after “criminal record check” in clause 14 (2).

[17] Part 3A

Insert after Part 3:

Part 3A Selection of authorised carers as adoptive parents of a child in their care

17A Application of Part

This Part applies to and in respect of the selection of authorised carers as adoptive parents in accordance with Part 3A of the Act.

Note. Section 45C of the Act limits the operation of Part 3A of the Act to assessment and selection of persons authorised by a designated agency as authorised carers of children in out-of-home care as prospective adoptive parents. Part 3 of this Regulation applies to other authorised carers seeking to adopt a child.

17B Submission of application to adopt

- (1) The Secretary may, orally or in writing, invite an authorised carer (or authorised carers) of a child who is in out-of-home care to submit an application (or joint application) to the Secretary or the principal officer of an accredited adoption service provider to adopt the child.
- (2) The application is to be submitted in writing in the form approved by the Secretary.

17C Information to be provided to authorised carers submitting applications to adopt

- (1) The Secretary or principal officer to whom an application is submitted under this Part is to supply the authorised carer or authorised carers who submitted the application with information about the following:
 - (a) the education, assessment, approval and selection processes,
 - (b) criteria for approval and selection of authorised carers as adoptive parents in accordance with Part 3A of the Act,
 - (c) fees and the reduction or waiver of fees,
 - (d) the rights and responsibilities under the law of New South Wales of authorised carers who are applying to adopt a child under this Part, adoptive parents, adopted persons and birth parents or former adoptive parents of adopted children.
- (2) The information may be communicated to the authorised carer verbally or in writing or by such other means as the Secretary thinks fit.

17D Adoptive parent education and training

The Secretary or principal officer of an accredited adoption provider to whom an application is submitted under this Part may, at any time following submission of the application, require the authorised carer or authorised carers who submitted it to attend an adoptive parent education and training course provided by the Secretary or that principal officer or the principal officer of another accredited adoption service provider.

17E Documents to accompany application to adopt

- (1) An application by an authorised carer or authorised carers to adopt a child under this Part is to be accompanied by the following:
 - (a) a statement made by each such authorised carer as to the physical and mental health of the authorised carer, and a medical report in respect of the authorised carer, in the form approved by the Secretary,
 - (b) a certified copy of every marriage registration (if any) relating to each such authorised carer issued by the Registry of Births, Deaths and Marriages or, if the authorised carer was married in another jurisdiction, a certified copy of an equivalent document issued by the authority responsible for the registration or recording of marriages in that jurisdiction,
 - (c) a certified copy of every decree absolute in divorce (if any) relating to each such authorised carer,
 - (d) a certified copy of the birth registration relating to each such authorised carer and proof of any amendment to the registration of birth, if applicable.
- (2) If a document referred to in subclause (1) (b) is not in English, it must be accompanied by a translation in English that is authenticated or certified to the satisfaction of the Secretary.

17F Action to be taken by relevant decision-maker after receipt of application to adopt

- (1) The relevant decision-maker must acknowledge receipt of each application to adopt a child made to the relevant decision-maker under this Part.

- (2) In addition to any medical report accompanying the application, the relevant decision-maker may obtain such other medical reports as he or she thinks fit in respect of the authorised carer or authorised carers who made the application.

17G Power to require information

The relevant decision-maker may require the authorised carer or authorised carers who submitted an application to adopt a child to provide such information as is reasonably required by the relevant decision-maker to assess the suitability of the authorised carer or authorised carers to be approved to adopt the child.

17H Suitability checks

- (1) The relevant decision-maker must not assess an authorised carer or authorised carers who jointly applied to be approved as suitable to adopt a child unless the relevant decision-maker has obtained or conducted the following in respect of each authorised carer:
- (a) approved identity information,
 - (b) if the relevant decision-maker reasonably believes that a designated agency has material knowledge about the authorised carer—a designated agency check from that agency,
 - (c) if the relevant decision-maker reasonably believes that an accredited adoption service provider has material knowledge about the authorised carer—an accredited adoption service provider check from that provider,
 - (d) a nationwide criminal record check,
 - (e) a Community Services check,
 - (f) references from at least 2 persons concerning the authorised carer's suitability to adopt a child.

Note. Section 45 (2) of the Act requires certain additional checks to be conducted under the *Child Protection (Working with Children) Act 2012*.

- (2) The relevant decision-maker may obtain further information, or conduct further checks, in relation to an authorised carer at any time before the making of an adoption order in relation to the application.
- (3) The relevant decision-maker is to obtain or conduct the following in respect of any person (other than a child in out-of-home care) who resides at an authorised carer's home for a period of 3 or more weeks at any time after the application is made and before it assesses the authorised carer as suitable to adopt the child or any person who takes up residence after that assessment and before the adoption order is made:
- (a) approved identity information,
 - (b) if the relevant decision-maker reasonably believes that a designated agency has material knowledge about the person—a designated agency check,
 - (c) if the relevant decision-maker reasonably believes that an accredited adoption service provider has material knowledge about the person—an accredited adoption service provider check from that provider,

- (d) a nationwide criminal record check of the person (if the person is 16 or more years of age),
 - (e) a Community Services check (if the person is 16 or more years of age).
- Note.** Section 45 (2) of the Act requires certain additional checks to be conducted under the *Child Protection (Working with Children) Act 2012*.
- (4) The checks referred to in subclause (3) (d) and (e) do not apply to or in respect of a child if such a check was not required when an authorised carer suitability check was obtained or conducted in relation to the authorised carer or authorised carers who jointly made the application.
 - (5) The relevant decision-maker may obtain further information, or conduct further checks, in relation to a person who resides at an authorised carer's home for a period of 3 or more weeks to those referred to in subclause (3) at any time before the making of an adoption order in relation to the application.
 - (6) The relevant decision-maker may make such other inquiries with respect to an authorised carer or a person who resides at the authorised carer's home for a period of 3 or more weeks as the decision-maker considers appropriate, including any check relating to the employment or other activities of the authorised carer or person.
 - (7) An accredited adoption service provider has **material knowledge** about an authorised carer or person for the purposes of this clause if the accredited adoption service provider:
 - (a) has received an expression of interest from the authorised carer or person in adopting a child, or
 - (b) has received an application to adopt a child from the authorised carer or person, or
 - (c) has known the authorised carer or person to reside at the home of a person submitting such an expression of interest or application.
 - (8) A designated agency has **material knowledge** about an authorised carer or person for the purposes of this clause if the designated agency:
 - (a) has authorised the authorised carer or person as a carer under the *Children and Young Persons (Care and Protection) Act 1998*, or
 - (b) has received an application from the authorised carer or person to be authorised as a carer, or
 - (c) has known the authorised carer or person to reside at the home of such a carer or applicant.
 - (9) In this clause:
authorised carer suitability check means approved identity information, a designated agency check, a nationwide criminal record check or Community Services check obtained or conducted in accordance with the *Children and Young Persons (Care and Protection) Regulation 2012* for the purposes of deciding whether to grant an authorisation as an authorised carer.

171 Criteria for assessment of authorised carers who are applicants for adoption in NSW

For the purposes of section 45F of the Act, the relevant decision-maker is to have regard to the following matters when assessing the suitability of an authorised carer, or of each authorised carer who jointly applied to adopt a child, to be approved to adopt the child:

- (a) the authorised carer's health, including emotional, physical and mental health,

- (b) the authorised carer's age and maturity,
- (c) the authorised carer's skills and life experience in relation to the authorised carer's ability to undertake parenting tasks and attend to the specific needs of an adopted child,
- (d) the authorised carer's capacity to support the maintenance of the child's cultural identity and religious faith (if any),
- (e) the authorised carer's appreciation of the importance of and capacity to facilitate:
 - (i) contact with the child's birth parents and family, and
 - (ii) exchange of information about the child with the child's birth parents and family,
- (f) the general stability of the authorised carer's character,
- (g) the stability and quality of the authorised carer's relationship with his or her spouse (if any) and between the authorised carer, his or her spouse (if any) and other members of the authorised carer's family and household,
- (h) any information obtained or check conducted under clause 17H,
- (i) whether the authorised carer has shown an ability to provide a stable, secure and beneficial emotional and physical environment for the child and has the capacity to provide such an environment during the child's upbringing until the child reaches social and emotional independence,
- (j) without limiting paragraph (i), the person's compliance, while at any time an authorised carer, with any applicable provisions of the *Children and Young Persons (Care and Protection) Act 1998* and the regulations made under that Act.

17J Assessment of applicants for adoption in NSW

- (1) The relevant decision-maker may:
 - (a) approve or approve subject to conditions, or
 - (b) decline to approve,an authorised carer or authorised carers who have made an application to adopt a child under this Part as suitable to adopt the child.

Note. Clause 72 prescribes the above decisions as reviewable decisions for the purposes of Chapter 10 of the Act.
- (2) Without limiting subclause (1), the relevant decision-maker may decline to approve the authorised carer or authorised carers as suitable to adopt the child if the authorised carer or authorised carers have made an application to another relevant decision-maker and that other decision-maker:
 - (a) is assessing the suitability of the authorised carer or authorised carers to adopt the child, or
 - (b) has approved, or approves subject to conditions, the authorised carer or authorised carers as suitable to adopt the child.
- (3) In assessing the suitability of an authorised carer or authorised carers to adopt a child under this Part, the relevant decision-maker is to have regard to the provisions of Part 1 of Chapter 4 of the Act (so far as they are relevant), the selection criteria set out in clause 17I and any information obtained or check conducted under clause 17H.
- (4) If the relevant decision-maker is a principal officer, the relevant decision-maker may (instead of having regard to the selection criteria set out

in clause 17I) have regard to any criteria to assess the suitability of applicants to adopt a child notified to the Secretary in accordance with clauses 16 and 16A of Schedule 1 and any information obtained or check conducted under clause 17H.

- (5) In assessing the suitability of an authorised carer or authorised carers to adopt a child under this Part, the relevant decision-maker must take into account whether any other person who resides at the home of the authorised carer or authorised carers is of good repute and is a fit and proper person to associate with a child having regard to the information obtained and checks conducted in relation to the person under clause 17H.
- (6) The relevant decision-maker must decline to approve an application made jointly by authorised carers if the relevant decision-maker determines that any of them is not suitable to adopt a child.
- (7) A relevant decision-maker must not assess an authorised carer or authorised carers as suitable to adopt a child unless the authorised carer or authorised carers and every adult person who resides with the authorised carer or authorised carers has a working with children check clearance that is in force under the *Child Protection (Working with Children) Act 2012* or is exempted by the regulations under that Act from the requirement to hold such a clearance.
- (8) If the relevant decision-maker is a principal officer, he or she must:
 - (a) promptly advise the Secretary of decisions taken by the decision-maker under subclause (1), and
 - (b) furnish the Secretary with such particulars relating to any such decision as the Secretary may require.

17K Notification of assessment of authorised carers who are applicants for adoption in NSW

- (1) The relevant decision-maker is to advise the authorised carer or authorised carers who jointly made an application to adopt a child under this Part of the decision by notice in writing served personally or by post.
- (2) The notice is to be accompanied by a copy of any assessment report or other report concerning the authorised carer (other than any accredited adoption service provider check, nationwide criminal record check, designated agency check, Community Services check or confidential referee report) considered by the relevant decision-maker in assessing the authorised carer.
- (3) An approval (or approval subject to conditions) has effect for the period of 4 years (or such longer period as may be determined by the relevant decision-maker) after the authorised carer or authorised carers are advised of the approval.

17L Approvals subject to conditions

Without limiting the conditions that the relevant decision-maker may impose under clause 17J, conditions may be imposed that:

- (a) limit the duration of the approval, or
- (b) require an authorised carer approved as suitable to adopt the child to confirm or update the particulars of the application for approval on a periodic basis or at the request of the relevant decision-maker, or
- (c) require an authorised carer to notify a relevant decision-maker (if not already notified by some other person) as soon as practicable after the

authorised carer becomes aware that the authorised carer or the authorised carer's spouse or de facto partner is pregnant, or

- (d) require an authorised carer to notify the relevant decision-maker of any other significant change in their circumstances that might affect the approval (for example, if an authorised carer suffers a deterioration in health or changes his or her marital status) as soon as practicable after the change occurs.

17M Advice to be given of decision and right to apply for reasons for, and review of, decision

The relevant decision-maker must:

- (a) advise the authorised carer or authorised carers who jointly made an application to adopt a child under this Part of a decision to decline to approve the carer or carers as suitable to adopt the child, or to approve them subject to conditions, as soon as practicable after the decision is made, and
- (b) give the authorised carer or authorised carers written advice of their right to request reasons for, and apply for a review of, the decision under Chapter 10 of the Act.

Note. Clause 72 (1) prescribes a decision to decline to approve an applicant as suitable to adopt a child as a reviewable decision for the purposes of Chapter 10 of the Act.

17N Revocation of approval

- (1) The relevant decision-maker may at any time revoke approval of an authorised carer or authorised carers who jointly made an application to adopt a child under this Part as suitable to adopt a child.
- (2) The relevant decision-maker must:
- (a) advise the authorised carer or authorised carers of a decision to revoke an approval as soon as practicable after the decision is made, and
- (b) give the authorised carer or authorised carers written advice of their right to request reasons for, and apply for a review of, the decision under Chapter 10 of the Act, and
- (c) if the relevant decision-maker is the principal officer of an adoption service provider—notify the Secretary in writing of the decision to revoke the approval as soon as practicable after the decision is made.

Note. Clause 72 (1) prescribes a decision to revoke the approval of an applicant as suitable to adopt a child as a reviewable decision for the purposes of Chapter 10 of the Act.

[18] Clause 28 Confidentiality of adoption proceedings

Insert at the end of clause 28 (1) (b):

, or

- (c) to the Children's Guardian for the purposes only of the exercise of the Children's Guardian's functions under Part 2 or under the *Child Protection (Working with Children) Act 2012*.

[19] Clause 28 (2) (b1)

Insert after clause 28 (2) (b):

- (b1) for the purposes of the exercise of the Children's Guardian's functions under Part 2 or under the *Child Protection (Working with Children) Act 2012*, or

[20] Clause 72 Reviewable decisions

Insert at the end of the clause:

- (2) The following classes of decision of the Children's Guardian are prescribed for the purposes of section 193 (1) (i) of the Act:
 - (a) a decision to grant or refuse an application for accreditation,
 - (b) a decision as to the specification of the adoption services that may be provided by an accredited adoption service provider and any variation of such a decision,
 - (c) a decision to impose or not to impose a condition on the accreditation of an adoption service provider or the process of accreditation as an adoption service provider,
 - (d) a decision to vary or revoke any such condition,
 - (e) a decision to shorten the accreditation period, or suspend or cancel the accreditation, of an accredited adoption service provider (other than such a decision requested by an accredited adoption service provider),
 - (f) a decision to refuse to make a decision referred to in this subclause that the Children's Guardian is empowered and has been requested to make.

[21] Clause 73 Case records

Insert at the end of clause 73 (1) (b):

and

- (c) each authorised carer the Secretary has invited to submit an application to adopt a child.

[22] Clause 73 (2) (d)

Insert after clause 73 (2) (c):

- (d) the Children's Guardian for the purposes only of the exercise of the Children's Guardian's functions under Part 2 or under the *Child Protection (Working with Children) Act 2012*.

[23] Clause 74 Restrictions on inspection of documents

Insert at the end of the clause:

- (d) the Children's Guardian for the purposes only of the exercise of the Children's Guardian's functions under Part 2 or under the *Child Protection (Working with Children) Act 2012*.

[24] Clause 74A

Insert after clause 74:

74A When acts of Children's Guardian take effect

- (1) This clause applies to anything the Children's Guardian is required or authorised to do under this Regulation if done by way of a written instrument.
- (2) The instrument takes effect on the date of its execution unless it otherwise provides.

[25] Clauses 80 and 81

Insert after clause 79:

80 Transitional provision relating to adoption consequent on Child Protection Legislation Amendment Act 2014

- (1) In this clause:
amending Act means the *Child Protection Legislation Amendment Act 2014*.
- (2) Section 46 (2A) and (2B) of the Act, as inserted by the amending Act, extend to an adoption plan that accompanies or is prepared in relation to an application for an adoption order made, but not determined, before the insertion of those subsections.

81 Transitional provisions relating to existing accreditation consequent on Adoption Amendment Regulation 2014

- (1) In this clause:
amending Regulation means the *Adoption Amendment Regulation 2014*.
existing accredited adoption service provider means an organisation that on 29 October 2014 was taken to be accredited as an adoption service provider by clause 26 of Schedule 3 to the Act.
- (2) An existing accredited adoption service provider that, immediately before the commencement of the amending Regulation, was accredited to provide domestic adoption services is taken on that commencement to have been granted full accreditation under clause 5D of this Regulation and to be subject to the conditions of accreditation in Schedule 1 as amended by the amending Regulation.
- (3) An existing accredited adoption service provider that, immediately before the commencement of the amending Regulation, was accredited to provide intercountry adoption services is taken on that commencement to have been granted provisional accreditation under clause 5D of this Regulation and to be subject to the conditions of accreditation in Schedule 1 as amended by the amending Regulation.
- (4) The Children's Guardian is to publish the information required by clause 5F (a)–(h) in relation to an organisation referred to in subclause (1) on a website maintained by the Children's Guardian as soon as practicable after the commencement of this clause.

[26] Schedule 1 Conditions of accreditation for adoption service providers

Omit clauses 6–8 and 17.

[27] Schedule 1, clause 9

Insert “or the Children’s Guardian” after “Director-General”.

[28] Schedule 1, clause 12 (2)–(4)

Insert at the end of clause 12:

- (2) For the purposes of the exercise of the functions the Children’s Guardian has to accredit adoption service providers and to monitor their responsibilities under the Act and this Regulation, an adoption service provider must, at any reasonable hour, permit the Children’s Guardian, or a person authorised in writing by the Children’s Guardian for the purposes of this subclause, to:
 - (a) enter premises owned or occupied by the adoption service provider, and

- (b) inspect the premises, and
 - (c) observe and converse with any person present in the premises, and
 - (d) make such examination and inquiry while in the premises as the Children's Guardian or person thinks necessary for the exercise of those functions.
- (3) For that purpose, an adoption service provider must:
- (a) provide the Children's Guardian with such assistance and facilities as are reasonably necessary to enable the Children's Guardian to exercise the functions referred to in subclause (2), and
 - (b) authorise any person subject to the direction of the adoption service provider to answer questions or otherwise furnish information to the Children's Guardian.
- (4) An adoption service provider is not required to permit entry to premises under subclause (2) if the provider was not given reasonable notice that entry would be required, unless:
- (a) the Children's Guardian has certified, by notice in writing, that giving notice before requiring entry would frustrate the purpose of requiring entry, and
 - (b) that notice was given to the agency before the provider's permission was demanded.

[29] Schedule 1, clause 13

Omit the clause. Insert instead:

13 Provision of reports and information to Secretary and Children's Guardian

- (1) An adoption service provider must provide the Secretary and the Children's Guardian 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 Secretary or Children's Guardian 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.
- (2) An adoption service provider must provide the Secretary or Children's Guardian with any information relevant to its provision of adoption services that the Secretary or Children's Guardian may reasonably require by notice in writing.

[30] Schedule 1, clause 14 (1)

Insert "and the Children's Guardian" after "Director-General".

[31] Schedule 1, clause 16 (1)

Omit the subclause. Insert instead:

- (1) An adoption service provider must notify the Secretary and the Children's Guardian of any change in the following one business day after the change occurs:
- (a) the corporate or business name or ABN of the adoption service provider,

- (b) the street and postal address of the adoption service provider's principal place of business,
- (c) the agency's general telephone number,
- (d) the agency's general email address (if any).

[32] Schedule 1, clause 16 (2)

Omit "28 days". Insert instead "14 days".

[33] Schedule 1, clause 16A

Omit clause 16A (2) and (3).

[34] The whole Regulation

Omit "Director-General" and "Director-General's" wherever occurring.
Insert instead "Secretary" and "Secretary's" respectively.