

# Adoption Information Act 1990 No 63

[1990-63]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by the [Adoption Act 2000 No 75](#), sec 209 (1) (b) with effect from 1.2.2003.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Adoption Information Act 1990 No 63



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# Adoption Information Act 1990 No 63



New South Wales

An Act to allow greater access to information relating to adoptions; and for other related matters.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Adoption Information Act 1990*.

### 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.
- (2) Parts 1 and 5 and sections 15-20 commence on the date of assent.

### 3 Objects

The objects of this Act are:

- (a) to give adult adopted persons greater access to information concerning their origins, and
- (b) to give the birth parents and adoptive parents of adult adopted persons greater access to information concerning their children, and
- (c) to preserve controls adoptive parents have over the access of adopted children to information concerning their origins while recognising the paramount interests of adopted children, and
- (d) to give the relatives of adopted persons, birth parents and other persons access to information concerning adopted persons' origins in special circumstances, and
- (e) to protect the privacy of adopted persons and birth parents by establishing a system of vetoes against contact with persons identified through access to information concerning persons adopted before the date of assent to this Act, and
- (f) to limit the disclosure of information concerning the personal affairs of persons that

might unduly intrude on their privacy, and

- (g) to make provision for a Reunion and Information Register to facilitate reunions between adopted persons, birth parents and other persons (if desired by the persons concerned) and to facilitate exchange of messages between persons concerned in or affected by an adoption.

#### 4 Definitions

In this Act:

**adopted brother or sister**, in relation to an adopted person, means another adopted person who has or had at least one parent (whether biological or adoptive) who is or was a birth parent of the adopted person.

**adopted person** means a person:

- (a) an order for whose adoption was made under the [Adoption of Children Act 1965](#) or a former Act within the meaning of that Act, or
- (b) whose adoption in another State or Territory of the Commonwealth or in a country outside the Commonwealth and the Territories is recognised under the [Adoption of Children Act 1965](#) as having the same effect as if an order for adoption had been made under that Act.

**adoptive parent** means a person who becomes the parent of an adopted person by adoption.

**advance notice request** means an advance notice request lodged under Part 2A.

**advance notice registration** means an advance notice request registered under Part 2A and in force.

**amended birth certificate**, in relation to an adopted person, means a certificate certifying the particulars relating to the birth of the person based on the registered memorandum relating to the adoption of the person kept under the [Births, Deaths and Marriages Registration Act 1995](#).

**birth parent** means a biological parent of an adopted person.

**contact veto** means a veto against contact registered under Part 3 and in force.

**Director-General** means the Director-General of the Department of Family and Community Services.

**hospital** means:

- (a) a public hospital under the control of an area health service within the meaning of the [Health Services Act 1997](#) or the Crown, or

(b) a statutory health corporation or affiliated health organisation within the meaning of the *Health Services Act 1997*, or

(c) a private hospital within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*.

**information source** means:

(a) the Department of Family and Community Services, or

(b) the Department of Health, or

(c) a private adoption agency, or

(d) a hospital, or

(e) the Office of the Registrar, or

(f) the Supreme Court, or

(g) any other institution, body or person prescribed as an information source for the purposes of this Act.

**original birth certificate**, in relation to an adopted person, means:

(a) if the person's birth is registered under the *Births, Deaths and Marriages Registration Act 1995*—a certificate certifying the particulars relating to the birth of the person registered under section 17 of that Act, or

(b) if the person's birth is not so registered—a copy of any similar document relating to the adopted person identifying the birth parents of the person and contained in records relating to the adoption of the person that are held by an information source.

**prescribed information** has the meaning given by section 5.

**primary information source** means:

(a) the Registrar, or

(b) if another person is prescribed by the regulations for the purpose of the provision in relation to which the expression is used—that person.

**private adoption agency** means a charitable organisation for the time being approved as a private adoption agency under Part 3 of the *Adoption of Children Act 1965*.

**Registrar** means the Registrar of Births, Deaths and Marriages.

**relative** means a grandparent, son, daughter, grandchild, brother, sister, uncle or aunt of a person:

- (a) whether the relationship is of the whole blood or half blood or by marriage, and
- (b) whether the relationship is natural or depends on the adoption of a person.

**sibling** of an adopted person means a brother or sister of the person, whether the relationship is of the whole blood or half blood.

**supply authority** means an authority to supply a birth certificate or prescribed information issued by the Director-General in accordance with the regulations.

## 5 Prescribed information

- (1) For the purposes of this Act, **prescribed information** is information of a kind prescribed by the regulations.
- (2) Different kinds of information may be prescribed:
  - (a) for different classes of persons to whom the information relates, or
  - (b) for different classes of persons to whom the information is supplied under this Act.
- (3) Subsection (2) does not limit the different kinds of information that may be prescribed.

## Part 2 Access to birth certificates and other information

### 6 Adopted person's rights

- (1) An adopted person is entitled to receive (subject to this Act):
  - (a) the person's original birth certificate, and
  - (b) any prescribed information relating to the person's birth parents held by an information source, and
  - (c) any prescribed information relating to an adopted brother or sister of the person held by an information source.
- (2) An adopted person who is less than 18 years old is not entitled to receive his or her original birth certificate or prescribed information except with the consent of:
  - (a) his or her surviving adoptive parents and surviving birth parents (as shown on the original birth certificate), or
  - (b) the Director-General if there are no surviving adoptive parents or birth parents (as so shown) or if they cannot be found or if there is, in the opinion of the Director-General, any other sufficient reason to dispense with their consent.
- (3) An adopted person is not entitled to receive any prescribed information held by an information source unless:



- (a) the adopted person produces to the information source his or her original birth certificate (being a certificate supplied under this Part), or
- (b) his or her original birth certificate is held by that information source and will be supplied together with the prescribed information.

## **7 Adoptive parent's rights**

- (1) An adoptive parent of an adopted person is entitled to receive (subject to this Act):
  - (a) the adopted person's original birth certificate, and
  - (b) any prescribed information relating to the adopted person held by an information source.
- (2) The adoptive parent is not entitled to receive the original birth certificate unless the adopted person is 18 or more years old and consents to the adoptive parent receiving it.

## **8 Birth parent's rights**

- (1) A birth parent of an adopted person who is 18 or more years old is entitled to receive (subject to this Act):
  - (a) the amended birth certificate of the adopted person if a memorandum of the adoption of the person is registered under the *Births, Deaths and Marriages Registration Act 1995*, and
  - (b) any prescribed information relating to the adopted person or the adoptive parents held by an information source.
- (2) A man who claims to be the birth parent of an adopted person is entitled to receive an amended birth certificate or prescribed information if:
  - (a) he is shown on the adopted person's original birth certificate as the person's father, or
  - (b) he is a person whom the Director-General, Registrar or other information source is entitled to presume, under any law (including a law of another State or Territory or the Commonwealth), to be the person's father.
- (3) A birth parent is not entitled to receive any prescribed information held by an information source unless the birth parent produces to the information source the amended birth certificate of the adopted person (being a certificate supplied under this Part) except as provided by subsection (4).
- (4) A designated person may supply a birth parent with prescribed information held by an information source about an adopted child who is less than 18 years old without production of the amended birth certificate of the adopted person if, in the opinion of

the designated person, the information could not be used to identify the adopted person or his or her adoptive parents.

(5) In this section:

**designated person** has the same meaning as it has in section 11.

## **9 Access to adoption information by relatives and others after death of adopted person or birth parent**

(1) The Director-General may:

(a) supply to a relative or spouse of a deceased adopted person or of a deceased birth parent, or to another person, the original or amended birth certificate of the adopted person or birth parent, or

(a1) supply to a relative or spouse of a deceased adopted person or of a deceased birth parent, or to another person, any prescribed information relating to, or which an adopted person or birth parent is entitled to receive relating to, the adopted person or birth parent, or

(b) after such consultation with the Registrar or other information source concerned as the Director-General considers necessary, authorise the Registrar or other information source to supply such a birth certificate or such information to a person nominated by the Director-General.

(2) The Director-General must not supply a birth certificate or prescribed information to a person other than a relative or spouse (or authorise such action to be taken by an information source) unless the person had a close personal relationship with the deceased person.

(2A) The Director-General must not supply a birth certificate or prescribed information to any person (or authorise such action to be taken by an information source) unless the Director-General has taken into account any likely detriment to the welfare and best interests of any adopted person, birth parent, relative or spouse of the deceased person or the other person if the birth certificate or information is supplied.

(3) An information source so authorised by the Director-General to supply a birth certificate or prescribed information must supply that certificate or information to the person nominated by the Director-General.

(4) This section does not apply to prescribed information held by the Supreme Court.

(5) In this section:

**spouse** of a deceased person includes a person with whom the deceased had a de facto relationship (within the meaning of the [Property \(Relationships\) Act 1984](#)) at the time of his or her death.

## 10 Application for supply of birth certificate or prescribed information

- (1) An application for the supply of an original birth certificate under this Part is to be made in writing to:
  - (a) if the person's birth is registered under the *Births, Deaths and Marriages Registration Act 1995*—the primary information source, or
  - (b) if the person's birth is not so registered but his or her original birth certificate is held by an information source—that information source.
- (2) An application for the supply of an amended birth certificate under this Part is to be made in writing to the primary information source.
- (3) An application for the supply of prescribed information held by an information source is to be made in writing to the information source.
- (4) The regulations may make provision for or with respect to the making of applications under this Part.

## 11 Persons designated to deal with applications

- (1) An application for the supply of a birth certificate or prescribed information under this Part is to be dealt with by the designated person.
- (2) The designated person is required to supply the birth certificate or prescribed information if satisfied that the applicant is entitled under this Act to receive it.
- (3) This section does not apply to the Supreme Court.
- (4) In this section, **designated person** means:
  - (a) in relation to the Department of Family and Community Services—the Director-General, or
  - (b) in relation to a hospital controlled, or health service provided, by an area health service within the meaning of the *Health Services Act 1997*—the chief executive officer of the service, or
  - (c) in relation to a statutory health corporation or affiliated health organisation within the meaning of the *Health Services Act 1997*—the chief executive officer of the corporation or organisation, or
  - (d) in relation to the Department of Health—the Director-General of the Department, or
  - (e) in relation to a private adoption agency—the principal officer (within the meaning of the *Adoption of Children Act 1965*) of the private adoption agency, or

- (f) in relation to a private hospital (within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*)—the licensee of the private hospital, or
- (g) in relation to the Office of the Registrar—the Registrar, or
- (h) in relation to an institution, body or person prescribed as an information source for the purposes of this Act—the person prescribed as the designated person for that institution, body or person,

and includes a person to whom a function under this section has been duly delegated by the designated person and a person authorised by the designated person in accordance with the guidelines prescribed by the regulations.

## **12 Discretion to supply birth certificate or prescribed information**

- (1) The Director-General may supply (or authorise an information source to supply) any birth certificate or prescribed information before an entitlement to the certificate or information arises under this Part if, in the opinion of the Director-General, it would promote the welfare and best interests of either or both of the parties concerned.
- (2) The Director-General may act under subsection (1) in any case in which an entitlement to prescribed information has not arisen because of the failure to obtain a birth certificate under this Part.
- (3) The Director-General may supply (or authorise an information source to supply) any birth certificate or prescribed information to a sibling of an adopted person or any other person who is not entitled under this Act to receive the birth certificate or prescribed information under this Part if, in the opinion of the Director-General, it is appropriate to do so because of exceptional circumstances affecting the interests or welfare of any person.

### **12A Discretion to withhold supply (or authorise the withholding of supply), to supply information or to supply it subject to conditions**

- (1) The following persons may request the Director-General to act under this section:
  - (a) an adopted person who is 18 or more years old,
  - (b) a birth parent,
  - (c) an adoptive parent of a person who is less than 18 years old,
  - (d) an adoptive parent of a person who is 18 or more years old and who has consented to the request being made.
- (2) The Director-General may, at the request of a person referred to in subsection (1):
  - (a) refuse to supply (or, if the regulations provide for the issue of a supply authority, to issue a supply authority authorising an information source to supply) any birth

certificate or prescribed information to which an entitlement arises under this Part,  
or

- (b) supply such a certificate or information subject to conditions specified in writing by the Director-General, or
- (c) if the regulations provide for the issue of a supply authority, issue a supply authority authorising an information source only to supply, subject to compliance with conditions specified by the Director-General, any birth certificate or prescribed information.

- (3) The Director-General may refuse to supply a birth certificate or prescribed information under this section only if, in the opinion of the Director-General, exceptional circumstances exist that make it necessary to do so to prevent serious harm to a party concerned.
- (4) Conditions that may be imposed by the Director-General under this section include conditions requiring the person entitled to the birth certificate or prescribed information to undergo counselling by a person specified by the Director-General before the certificate or information is supplied.
- (5) The Director-General must deal with a request under this section in accordance with any guidelines prescribed by the regulations.
- (6) An information source must not supply any birth certificate or prescribed information the subject of a supply authority imposing conditions on its supply unless the conditions are complied with.
- (7) The Director-General may not (despite section 5 of the [Community Welfare Act 1987](#)) delegate to another person the exercise of any function of the Director-General under this section.

### **13 Guidelines for release of prescribed information etc**

An information source which supplies any birth certificate or prescribed information pursuant to an application under this Act is required to comply with any relevant guidelines prescribed by the regulations.

### **14 Access to court records**

- (1) A person is not entitled to receive prescribed information under this Act from records of proceedings in the Supreme Court relating to the adoption of a person, except as provided by this section.
- (2) A person may apply to the Supreme Court for the supply of the information.
- (3) The Supreme Court or a proper officer of the Court may supply the information to the person.

(4) Rules of court may be made for or with respect to orders under this section.

### **15 Unauthorised disclosure of information**

(1) A person must not disclose any information relating to an adopted person, birth parent or adoptive parent obtained in connection with the administration or execution of this Act, except:

- (a) in connection with the administration or execution of this Act, or
- (b) as authorised or required by law.

(2) In any proceedings concerning this Act before any court or tribunal, the court or tribunal may make an order forbidding publication of all or any of the information mentioned in the proceedings relating to an adopted person, birth parent, adoptive parent, relative or other person.

(3) A person must not publish information in breach of an order made under this section.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

## **Part 2A Advance notice**

### **15A Object of Part**

The object of this Part is to establish an advance notice system to enable the release of personal information under the Act to be delayed for a fixed period to give the person requesting the delay the opportunity to prepare for the release and any impact this might have on the person or the person's family or associates.

### **15B Definitions**

In this Part:

***advance notice period*** means:

- (a) the period after an application for personal information relating to a person is made (not being greater than 3 months) prescribed by the regulations for the purposes of this paragraph, or
- (b) if the Director-General so directs in relation to a particular advance notice request, such longer period (not being greater than the period (if any) prescribed by the regulations) after an application for personal information relating to a person is made as is specified by the Director-General.

***nominated contact address*** means the address entered on the Advance Notice Register under section 15E (2) (b).

***personal information*** relating to a person means:

- (a) the person's original birth certificate or amended birth certificate, or
- (b) prescribed information relating to the person, or
- (c) if the regulations authorise supply of a birth certificate or prescribed information relating to the person on issue of a supply authority—such a supply authority.

**15C Who may lodge an advance notice request?**

A person is entitled to lodge a request to be given advance notice before personal information relating to the person is given to another person if the person seeking to lodge the request is:

- (a) an adopted person who has reached the age of 17 years and 6 months, or
- (b) a birth parent, or
- (c) an adoptive parent.

**15D How advance notice request is lodged**

- (1) A person entitled to lodge an advance notice request may do so by advising the Director-General in writing that he or she wishes to be notified if a particular person or a person within a class of persons entitled to receive the personal information concerned specified in the advice makes an application for personal information relating to the person lodging the advance notice request.
- (2) The advice is to be in a form approved by the Director-General.
- (3) An advance notice request is not duly lodged unless the person provides the Director-General with proof (to the satisfaction of the Director-General) of his or her identity.
- (4) A person lodging an advance notice request may also leave a message for a person concerned in or affected by an adoption with the Director-General for placement on the Reunion and Information Register.

**15E Advance Notice Register**

- (1) The Director-General is to establish and maintain an Advance Notice Register.
- (2) There is to be entered in the Advance Notice Register:
  - (a) the name of each person who has duly lodged an advance notice request, and
  - (b) the address nominated by the person as the address at which any personal or postal contact by the Director-General with the person should be made, and
  - (c) the date and place of birth of the person, and
  - (d) the persons or class of persons affected by the request, and

(e) the advance notice period.

- (3) The Director-General (unless the Director-General is the primary information source) is to advise the relevant primary information source of each entry made in the Advance Notice Register.
- (4) A person whose name is entered in the Advance Notice Register is to advise the Director-General of any change in his or her nominated contact address.

**15F Primary information source to delay issue of supply authority or prescribed information**

The primary information source is to delay the supply of personal information affected by an advance notice registration until the expiration of the advance notice period unless the registration is waived or cancelled under section 15I.

**15G Endorsement of details of advance notice request**

The primary information source is to advise the applicant for the supply of the personal information that it will not be supplied until the expiration of the advance notice period and of the reasons for the delay.

**15H Expiration of advance notice registration**

An advance notice registration expires:

- (a) on expiration of the advance notice period, or
- (b) if the person who lodged the request for registration cancels it by notification in writing to the Director-General, or
- (c) if the person who lodged the request dies, or
- (d) if a contact veto is lodged by the person who lodged the request, or
- (e) if the person who lodged the request fails to notify the Director-General in writing of any change in his or her nominated contact address,

whichever is the sooner.

**15I Arrangements to waive advance notice period**

- (1) The Director-General may, at the request of a person seeking supply of personal information that is affected by an advance notice registration, ask the person who lodged the advance notice request whether he or she wishes to waive or cancel the registration.
- (2) The Director-General is not to do so unless the Director-General:
  - (a) is of the opinion that the personal information is required urgently and that



circumstances exist that justify asking the person to waive or cancel the registration in order to promote the welfare and best interests of either or both of the parties concerned, and

- (b) has consulted any person or body that the Director-General believes may be of assistance in assessing the merits of the request.
- (3) The Director-General may arrange for either or both of the parties concerned in a request under this section to be provided with such counselling as the Director-General believes is necessary to assist them and the Director-General in the matter.
- (4) The Director-General must deal with a request under this section in accordance with any guidelines prescribed by the regulations.

#### **15J Notification to person who lodged advance notice request**

- (1) The Director-General is to notify a person who has lodged an advance notice request at the person's nominated contact address of an application under this Act for the supply of personal information affected by the registration, unless it is not reasonably practicable to notify the person.
- (2) The Director-General is entitled to rely on the address shown in the Advance Notice Register for this purpose and is not subject to any action, liability, claim or demand in respect of any notification given in good faith at that address.

### **Part 3 Contact vetoes**

#### **16 Adopted person or birth parent may lodge contact veto**

The following persons may lodge a contact veto:

- (a) an adopted person who has reached the age of 17 years and 6 months,
- (b) a birth parent.

#### **17 Contact veto may be lodged only for adoptions before this Act**

A person may lodge a contact veto only if:

- (a) the order for adoption of the adopted person was made under the [Adoption of Children Act 1965](#) (or a former Act within the meaning of that Act) before the date of assent to this Act, or
- (b) the adoption of the adopted person in another State or Territory of the Commonwealth or in a country outside the Commonwealth and the Territories is recognised under the [Adoption of Children Act 1965](#) as having been effected before the date of assent to this Act.

## **18 How contact veto is lodged**

- (1) A person entitled to lodge a contact veto may do so by notifying the Director-General in writing that he or she objects to contact being made with him or her by a person or any class of persons referred to in the notification.
- (2) The notification is to be in a form approved by the Director-General.
- (3) A contact veto is not duly lodged unless the person provides the Director-General with proof (to the satisfaction of the Director-General) of his or her identity.
- (4) A person lodging a contact veto may also leave a message for a person concerned in or affected by an adoption with the Director-General for placement on the Reunion and Information Register.

## **19 Contact Veto Register**

- (1) The Director-General is to establish and maintain a Contact Veto Register.
- (2) There is to be entered in the Contact Veto Register:
  - (a) the name of each person who has duly lodged a contact veto, and
  - (b) the address nominated by the person as the address at which any personal or postal contact by the Director-General with the person should be made, and
  - (c) the date and place of birth of the person, and
  - (d) the persons or class of persons with whom the person objects to contact, and
  - (e) the name and address for notification of each person who has duly requested under this Act that he or she be notified of the cancellation or variation of a contact veto.

## **20 Director-General to advise primary information source**

The Director-General is (unless the Director-General is the relevant primary information source) to advise the primary information source of the details of each contact veto entered in the Contact Veto Register.

## **21 Primary information source to endorse details of contact veto on birth certificate**

- (1) The primary information source is required to endorse details of each contact veto on the original birth certificate or amended birth certificate of the adopted person to whom the contact veto relates that is supplied by the primary information source under this Act.
- (2) An information source (other than the primary information source) which is requested to supply an original birth certificate under this Act is required:

- (a) to ascertain from the Director-General whether there is a contact veto relating to the adopted person concerned, and
  - (b) if so, to endorse details of the contact veto on the original birth certificate before it is supplied under this Act.
- (3) The regulations may require a primary information source to endorse details of each contact veto on any memorandum of adoption of a person or other document concerning an adopted person to whom the contact veto relates that is supplied by the primary information source.

## **22 When contact veto takes effect**

- (1) In this section, **relevant period** means the period of 5 working days or, if a different period is prescribed by the regulations, that period.
- (2) A contact veto takes effect on the expiration of the relevant period or after details of the contact veto are endorsed on the original birth certificate or amended birth certificate concerned, whichever occurs sooner.
- (3) However, a contact veto that is entered in the Contact Veto Register earlier than the relevant period before the commencement of this section takes effect on that commencement.

## **23 Expiration of contact veto**

- (1) A contact veto expires if:
- (a) (Repealed)
  - (b) the person who lodged the contact veto cancels it by notification in writing to the Director-General, or
  - (c) the person who lodged the contact veto dies.
- (2) The Director-General is (unless the Director-General is the relevant primary information source) to advise the primary information source of the expiration of a contact veto unless it is caused by a death of which the Director-General is not aware.

## **24 Arrangements to confirm, cancel or vary contact veto at request of person seeking contact**

- (1) The Director-General may, at the request of a person who has been refused contact under a contact veto, approach the person who lodged the contact veto and ask the person whether he or she:
- (a) wishes to confirm the contact veto, or
  - (b) wishes to cancel the contact veto, or

- (c) wishes to vary the contact veto in so far as it relates to contact with the person who has made the request.
- (2) The Director-General is not to approach the person who lodged the contact veto unless the Director-General:
  - (a) is of the opinion that circumstances exist that justify the approach in order to promote the welfare and best interests of either or both of the parties concerned, and
  - (b) has consulted the Director-General of the Department of Health and any other relevant authority the Director-General believes may be of assistance in assessing the merits of the request for the person to be approached.
- (3) The Director-General may arrange for either or both of the parties concerned in a request under this section to be provided with such counselling as the Director-General believes is necessary to assist them and the Director-General in the matter.
- (4) The Director-General must deal with a request under this section in accordance with any guidelines prescribed by the regulations.

## **25 Notification to person who lodged contact veto of request for information**

- (1) The Director-General is required to notify a person who has lodged a contact veto of an application under this Act for the supply of a birth certificate or prescribed information made by any person with whom contact is refused, unless the Director-General is unaware of the application or it is not reasonably practicable to notify the person.
- (2) This subsection applies where a person is directed by the Guardianship Board under Part 4A of the *Guardianship Act 1987* to make an application for supply of a birth certificate or prescribed information on behalf of a person with a disability with whom contact is refused. The Director-General is required to notify the person who lodged the contact veto if such an application is made.

## **26 Notification to person affected by contact veto of cancellation or variation**

The Director-General is required to notify a person of any cancellation or variation of a contact veto that affects the person if the person requests the Director-General to do so at the time the person receives a birth certificate or information subject to the contact veto.

## **27 Undertakings not to contact person who has lodged contact veto**

- (1) The primary information source or other information source is not to supply an original birth certificate or amended birth certificate endorsed with a contact veto against contact by the applicant unless the applicant has signed an undertaking that the applicant will not (while the contact veto remains in force):

- (a) contact or attempt to contact the person who has lodged the contact veto, or
  - (b) procure another person to contact or attempt to contact the person.
- (2) An information source is not to supply any prescribed information to an adopted person relating to an adopted brother or sister unless the Director-General is notified of the application for the information and is given an opportunity to ascertain whether a contact veto has been lodged in relation to contact with the adopted person.
- (3) If such a contact veto has been lodged, an information source is not to supply the information unless the applicant has signed an undertaking of the kind referred to in subsection (1).
- (4) The Director-General may, as a condition of the supply to a person of any certificate or information under section 12 which is subject to a contact veto, require the person to sign an undertaking of the kind referred to in subsection (1).
- (5) This section does not apply to an applicant who has been directed by the Guardianship Board under Part 4A of the [Guardianship Act 1987](#) to make the application on behalf of a person with a disability.

## **28 Veto on contact—offences**

- (1) An information recipient must not:
- (a) contact or attempt to contact the person who lodged a contact veto against contact by the information recipient, or
  - (b) procure another person to contact or attempt to contact that person.
- (2) An information recipient must not:
- (a) use information obtained under this Act to intimidate or harass the person who lodged a contact veto against contact by the information recipient, or
  - (b) procure any other person to intimidate or harass that person by the use of that information.
- (3) A person is not to claim to act on behalf of or hold himself or herself out as being willing to act on behalf of another person with a view to contravening this section.
- (4) In this section:

**information recipient** means an adopted person, adoptive parent, birth parent, relative or other person:

- (a) who has received an original birth certificate or amended birth certificate endorsed with a contact veto against contact by him or her (being a contact veto that remains in force), or

- (b) who has had disclosed to him or her prescribed information under this Act and who has knowledge that a contact veto against contact by him or her is then in force.

Maximum penalty: 25 penalty units or imprisonment for 6 months, or both.

## **29 (Repealed)**

# **Part 4 Reunion and Information Register**

## **30 Definition**

In this Part:

**register** means the Reunion and Information Register established under this Part.

## **31 Reunion and Information Register**

- (1) The Director-General is to establish a Reunion and Information Register.
- (2) There is to be entered in the register:
  - (a) the name of every person who is eligible to have his or her name entered in the register and who has duly applied for entry of his or her name with a view to a reunion with a person from whom he or she has been separated as a consequence of an adoption, and
  - (b) the name of every person who is eligible to have his or her name entered in the register and who has duly applied for entry of his or her name with a view to leaving a message for a person concerned in or affected by an adoption.
- (3) Application for entry in the register is to be made in a form approved by the Director-General.

### **31A Message may be left**

Any person whose name is entered on the register may leave a message for any other person entitled (subject to this Act) to have his or her name entered in the register.

### **31B Director-General may refuse to enter name or take message**

The Director-General may refuse to enter the name of a person in the register or to accept a message from any person if, in the opinion of the Director-General, the person is not eligible to have the person's name entered in the register or has not duly applied for entry of his or her name in the register.

### **31C Circumstances in which Director-General may open, inspect and copy message**

- (1) The Director-General may open, inspect and copy any message left under this Part for an adopted person who is less than 18 years old.

- (2) The Director-General may, at the request of a person whose name is entered in the register or of the person for whom a message has been left under this Part, open and inspect the message.

### **31D Director-General may delay delivery or message**

The Director-General may delay giving a person a message that the Director-General has been requested to open and inspect if the Director-General is of the opinion that the content of the message is likely to be so distressing for the person that it should be made available to the person only in the presence of appropriate counsellors or other persons able to assist the person.

### **31E Regulations**

The regulations may make provision for or with respect to the leaving and delivery of messages under this Part.

### **32 Persons eligible to have their names entered in the register**

- (1) The following persons are eligible to have their names entered in the register:
- (a) an adopted person,
  - (b) a birth parent,
  - (b1) an adoptive parent,
  - (c) any other person having an interest in an adopted person or birth parent (including a relative) who, in the opinion of the Director-General, ought to have his or her name entered in the register.
- (2) A person who is less than 18 years old is not eligible to have his or her name entered in the register, except as provided by this section.
- (3) An adopted person who is less than 18 years old is eligible to have his or her name entered in the register if:
- (a) the adopted person is 12 or more years old and the person's adoptive parents have consented in writing to his or her name being entered in the register, or
  - (b) the adopted person is 16 or more years old and is living separately and apart from his or her adoptive parents, or
  - (c) the adopted person is 12 or more years old and, in the opinion of the Director-General, special circumstances exist which make it desirable that his or her name should be entered in the register.
- (4) However, the Director-General is not to enter in the register the name of an adopted person who is less than 18 years old unless the Director-General is of the opinion that

to do so will promote the welfare and best interests of the adopted person.

- (5) The consent of an adoptive parent is not required under subsection (3) (a) for the entry in the register of the name of an adopted person who is less than 18 years old if the adoptive parent:
  - (a) is dead, or
  - (b) cannot, after due search and inquiry, be found, or
  - (c) is, in the opinion of the Director-General, incapable of giving consent.
- (6) The name of a person may not be entered in the register by another person on his or her behalf.

### **33 Arrangements for reunion of registered persons**

- (1) If the names of an adopted person and of a birth parent have been entered in the register under section 31 (2) (a), the Director-General may make arrangements for a reunion between the persons so registered.
- (2) If the names of an adopted person or birth parent and of a relative or other person having an interest in the adopted person or birth parent have been entered in the register under section 31 (2) (a), the Director-General may make arrangements for a reunion between the persons so registered.
- (3) The Director-General is not to arrange a reunion involving an adopted person who is less than 18 years old if an adoptive parent refused to consent to the entry of the name of the adopted person in the register under section 31 (2) (a), unless:
  - (a) the adoptive parent consents in writing to the reunion, or
  - (b) the Director-General gives the adoptive parent not less than 90 days notice of the intention to arrange the reunion.
- (4) The Director-General must notify any person whose name is entered in the register under section 31 (2) (a) of the entry in the register of the name of any other person from whom that person has been separated as a consequence of adoption.

### **34 Location of persons not registered**

- (1) If the name of an adopted person has been entered in the register under section 31 (2) (a), the Director-General may take such action as is reasonable in the circumstances to locate a birth parent or relative of the adopted person or any other person with whom the adopted person wishes to be reunited, so as to ascertain whether any such person wishes to be reunited with the adopted person.
- (2) If the name of a birth parent has been entered in the register under section 31 (2) (a), the Director-General may take such action as is reasonable in the circumstances to



locate the adopted person, so as to ascertain whether the adopted person wishes to be reunited with the birth parent.

- (3) If the name of a relative or other person having an interest in an adopted person or birth parent has been entered in the register under section 31 (2) (a), the Director-General may take such action as is reasonable in the circumstances to locate the adopted person or birth parent, so as to ascertain whether the adopted person or birth parent wishes to be reunited with the relative or other person.
- (4) The Director-General may take action to locate a person under this section only if the Director-General is satisfied that it will promote the welfare and best interests of the parties concerned and it is appropriate to do so:
  - (a) on medical, psychiatric or psychological grounds relating to one of the registered parties, or
  - (b) on any other ground relating to unusual or extreme circumstances affecting the interests or welfare of a party.
- (5) The Director-General may take action to locate a person under this section even though the person has not, by entering his or her name in the register, expressed a desire to be reunited with the person whose name is entered in the register.

## **Part 5 Miscellaneous**

### **35 Fees and charges**

- (1) The Director-General or other information source may demand fees or charges in respect of the supply of documents or information, or the provision of services, under this Act.
- (2) The Director-General is to notify, in the Gazette, the fees or charges payable under this Act to the Director-General and (if the Director-General has been so informed) to other information sources.
- (2A) A notice under subsection (2) may specify the minimum fees or charges payable in respect of the supply of any documents or information, or provision of any service, under this Act.
- (3) The Director-General or other information source may waive or reduce any fees or charges (other than a minimum fee or charge referred to in subsection (2A)) payable under this Act.
- (4) The fees or charges for the supply of a birth certificate under this Act are payable to the Director-General and are in addition to any fees or charges payable under the [Births, Deaths and Marriages Registration Act 1995](#) or to an information source which supplied the certificate.

- (5) The regulations may make provision for or with respect to fees and charges payable under this Act.

### **35A Internal review**

- (1) A person who is aggrieved by a decision of the Director-General made under or for the purposes of this Act on or after the commencement of this section may apply for review of the decision.
- (2) An application for a review is to be in a form approved by the Director-General.
- (3) On receipt of an application to review a decision, the Director-General is to review the decision and to notify the applicant of confirmation or otherwise of the decision.
- (4) In reviewing a decision, the Director-General is to consider any material submitted by the applicant.
- (5) The Director-General is taken to have reviewed a decision if the applicant is not notified of the outcome of the review within 30 days after the application for review was duly made.
- (6) This section applies whether or not the decision concerned is one that may be the subject of an application to the Administrative Decisions Tribunal for a review of the decision under section 40 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.
- (7) The regulations may prescribe requirements to be observed in relation to a review under this section.

### **36 Decisions that are reviewable by Administrative Decisions Tribunal**

- (1) For the purposes of section 40 (1) (a) of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, any of the following decisions made by the Director-General are reviewable by the Administrative Decisions Tribunal:
  - (a) a failure or refusal to supply any birth certificate or prescribed information to a person, or to authorise the Registrar or another information source to do so under this Act,
  - (b) a failure or refusal to enter the name of any person in a register under this Act,
  - (c) a failure or refusal to arrange a reunion or take action to locate a person under Part 4,
  - (d) a failure or refusal to approach a person who has lodged a contact veto in accordance with a request made under section 24,
  - (e) a decision made under or for the purposes of this Act by the Director-General that is a decision within a class of decisions prescribed by the regulations for the

purposes of this section.

- (2) Despite section 40 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, an application cannot be made to the Tribunal under that section until the decision concerned has been reviewed under section 35A of this Act.
- (3) Section 35A applies to the exclusion of section 53 (Internal reviews) of the *Administrative Decisions Tribunal Act 1997*. For the purposes of the application of that Act to the review of any decision made under this Act, any reference to an internal review of the decision under that Act is taken to be a reference to an internal review under section 35A of this Act.

### **36A Entitlements of disabled persons**

- (1) In this section a reference to a person with a disability is a reference to a person:
  - (a) who is intellectually, physically, psychologically or sensorily disabled, or
  - (b) who is of advanced age, or
  - (c) who is a mentally ill person within the meaning of Chapter 3 of the *Mental Health Act 1990*, or
  - (d) who is otherwise disabled,and who, because of that fact, is restricted in one or more major life activities to such an extent that he or she requires supervision or social rehabilitation.
- (2) If a person with a disability:
  - (a) has an entitlement to receive a birth certificate or prescribed information, or may lodge a contact veto or advance notice request, under this Act, and
  - (b) is unable, because of the disability, to do anything required by this Act that must be done if the person is to receive the birth certificate or prescribed information or lodge the contact veto or advance notice request,another person may, if so directed by the Guardianship Board under Part 4A of the *Guardianship Act 1987*, do any such act on behalf of the person with the disability.
- (3) The Director-General may:
  - (a) refuse to supply (or, if the regulations provide for the issue of a supply authority, to issue a supply authority authorising an information source to supply) any birth certificate endorsed with a contact veto to a person acting on behalf of a person with a disability, or
  - (b) direct an information source not to supply any such birth certificate,

if the Director-General is of the opinion that the person will be unable to ensure that the person with the disability will not contact or attempt to contact the person who lodged the contact veto.

### **37 Manner of giving notice**

- (1) Any notice required to be given to a person by the Director-General under this Act may be given personally or by post.
- (2) If any such person has duly nominated an address at which the person is to be notified, the notice may be given to the person only at that address.

### **38 False statement in application etc**

- (1) A person who makes any statement which the person knows to be false for the purposes of or in connection with:
  - (a) an application for the supply of a birth certificate or prescribed information under this Act, or
  - (b) the lodging of a contact veto under Part 3, or
  - (c) an application for entry of the person's name in the Reunion and Information Register under Part 4, or
  - (d) any other request under this Act,is guilty of an offence.

Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

- (2) This section applies to statements made in writing or orally.

### **39 Impersonation**

- (1) A person who impersonates an adopted person, birth parent, adoptive parent, relative or other person having an interest in an adopted person in connection with any matter under this Act is guilty of an offence.
- (2) A person who impersonates a person engaged in the administration or execution of this Act is guilty of an offence.

Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

### **40 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations are to be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.
- (2) Proceedings for an offence against section 28 (Veto on contact—offences) may be

instituted only with the written consent of the Attorney General.

- (3) In any proceedings referred to in subsection (2), a consent purporting to have been signed by the Attorney General is, without proof of the signature, evidence of that consent.

#### **41 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.
- (3) In particular, regulations may be made for or with respect to the exercise of any function conferred on a primary information source under this or any other Act (including, but not limited to, supply of a birth certificate or prescribed information by the primary information source in accordance with a supply authority issued by the Director-General).

#### **42 Repeal of regulations relating to Adopted Persons Contact Register**

Part 5A of the *Adoption of Children Regulations* is repealed.

#### **43 (Repealed)**

#### **44 Savings, transitional and other provisions**

Schedule 2 has effect.

### **Schedule 1 (Repealed)**

### **Schedule 2 Savings, transitional and other provisions**

(Section 44)

## **Part 1 Preliminary**

### **1 Savings and transitional regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

the [Adoption Information Act 1990](#)

the [Adoption Information Amendment Act 1995](#)

- (2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

- (3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provisions consequent on the enactment of this Act**

### **2 Definition**

In this Part:

**repealed Regulation** means Part 5A of the *Adoption of Children Regulations* as in force immediately before its repeal by this Act.

### **3 Saving of Adopted Persons Contact Register**

The Adopted Persons Contact Register established under the repealed Regulation is to form part of the Reunion Information Register established under Part 4 of this Act.

### **4 Saving of action commenced under repealed Regulation**

Anything done or commenced under the repealed Regulation which could have been done or commenced under this Act (if this Act had been in force when it was done or commenced) has effect on or after the repeal of the repealed Regulation as if it had been done or commenced under this Act.

## **Part 3 Provisions consequent on the enactment of the Adoption Information Act 1995**

### **5 Saving of Reunion Information Register**

The Reunion Information Register established under this Act as in force immediately before the commencement of the amendments to Part 4 made by the [Adoption Information Amendment Act 1995](#) is taken to form part of the Reunion and Information Register, established under Part 4, as amended.

### **6 (Repealed)**