

1. Commonwealth

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Australian Citizenship Act 2007</p>	<p>Cth</p>	<p>7</p>	<p>For the purposes of the Act a child born on a ship or aircraft registered in Australia or a foreign country are taken to be born at the place at which the ship or aircraft is registered. If a ship or aircraft is not registered in Australia or a foreign country and belonging to the government of a country is taken to be born in that country (Section 7.1).</p> <p>If a child is born after a parent's death then, for the purposes of the Act, the parent's status is taken to be the status of the parent when the parent died (Section 7.2).</p> <p>This provision is of importance as it affects the operation of the key provisions of the Act which confer citizenship on a child.</p>
			<p>12</p>	<p>Section 12(1) states that a person born in Australia is an Australian citizen if, and only if, (a) a parent of the person is an Australian citizen, or a permanent resident, at the time the person is born; or (b) the person is ordinarily resident in Australia throughout the period of 10 years beginning on the day the person is born.</p> <p>However a person born in Australia is not an Australian citizen under section 12(2) if a parent is an enemy alien and the place of birth is under occupation by the enemy.</p>

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			14	An abandoned child found in Australia is an Australian citizen, unless and until the contrary is proved.
			36	<p>The Minister can revoke a child's citizenship if its responsible parent ceases to be a citizen under sections 33, 34 or 35 of the Act (Section 36.1).</p> <p>The exceptions to this are when there is another responsible parent who is an Australian citizen or a situation where the revocation of citizenship would result in a child becoming a person who is not a national or citizen of any country. Importantly Section 36.3 states that a Minister must not revoke citizenship under subsection 1 in these circumstances (statelessness).</p>
	Australian Human Rights Commission Act 1986	Cth	Schedule 3- Declaration of the Rights of the Child	<p>Schedule 3 to the Act is the Declaration of the Rights of the Child. The Declaration includes the following relevant principles:</p> <p><u>Principle 3</u></p> <p>The child shall be entitled from his birth to a name and a nationality.</p> <p><u>Principle 6</u></p> <p>The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional</p>

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				<p>circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.</p>
	<p>Child Support (Assessment) Act 1989</p>	Cth	3	<p>Section 3 of the Act states that it is the duty of parents to maintain their children. Specifically under section 3(1) the parents of a child have the primary duty to maintain the child. The duty is not lower than the parent's duty to maintain any other child or person and has priority over all commitments of the parents other than commitments necessary to enable the parent to support themselves and any other child or person. The parent's duty is not affected by the duty of any other person to maintain the child or any entitlement the child may have to an income tested pension, allowance or benefit (Section 3(2)).</p>
			4	<p>The object of the act is to ensure that children receive a proper level of financial support from their parents.</p> <p>Particular objects of the act include ensuring:</p> <p>(a) that the level of financial support to be provided by parents for their children is determined according to their capacity to provide financial support and, in particular, that parents with a like capacity to provide financial support for their children should provide like amounts of financial support; and</p> <p>(b) that the level of financial support to be provided by</p>

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				<p>parents for their children should be determined in accordance with the costs of the children; and</p> <p>(c) that persons who provide ongoing daily care for children should be able to have the level of financial support to be provided for the children readily determined without the need to resort to court proceedings; and</p> <p>(d) that children share in changes in the standard of living of both their parents, whether or not they are living with both or either of them; and</p> <p>(e) that Australia is in a position to give effect to its obligations under international agreements or arrangements relating to maintenance obligations arising from family relationship, parentage or marriage.</p>
			7B	<p>The act defines an eligible carer for a child as a person who has at least shared care of the child (section 7B(1)).</p> <p>However a person is not an eligible carer if a person caring for a child is neither a parent or legal guardian of the child and the parent or legal guardian has indicated that he or she does not consent to the person sharing for the child (section 7B(2)) unless "it would be unreasonable in the circumstances for a parent or legal guardian of the child to care for the child".</p> <p>Section 7B(3) states that is unreasonable for a parent or legal guardian to care for a child if:</p> <p>(a) the Registrar is satisfied that there has been extreme</p>

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				<p>family breakdown; or</p> <p>(b) the Registrar is satisfied that there is a serious risk to the child's physical or mental wellbeing from violence or sexual abuse in the home of the parent or legal guardian concerned.</p>
			13	<p>There are effectively 2 versions of the Act that apply in Australia. The Act, as amended, applies:</p> <p>a) in all States and Territories in relation to children of marriages; and</p> <p>b) in all States and Territories, except Western Australia, in relation to exnuptial children.</p>
			Part 3	<p>Children born on or after the commencing day are eligible children under the act, as are brothers and sisters of eligible children born on or after the commencing day. Children whose parents separate on or after the commencing day are eligible children (Sections 18-21).</p> <p>Section 22 states that children who are under the care (however described) of a person under a child welfare law are not eligible children.</p>
	Family Law (Hague Convention on Intercountry Adoption) Regulations 1998	Cth	20(1)	<p>The regulation applies if:</p> <p>(a) an adoption, by a person who is habitually resident in Australia, of a child who is habitually resident in a Convention country is granted in that country; and</p> <p>(b) the laws of the Convention country do not provide that</p>

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				the adoption of the child terminates the legal relationship between the child and the individuals who were, immediately before the adoption, the child's parents (the pre-adoption parents).
			20(2)	The person (i.e. the person adopting a child) may apply to a court for an order that the adoption of the child terminates the legal relationship between the child and the pre-adoption parents.
			20(3)	<p>The court may make the order (terminating the legal relationship between the child and the pre-adoption parents) only if it is satisfied that:</p> <p>(a) an adoption compliance certificate issued in the Convention country is in force for the adoption; and</p> <p>(b) the laws of the Convention country do not provide that the adoption of a child terminates the legal relationship between the child and the pre-adoption parents; and</p> <p>(c) the child is allowed:</p> <p>(i) to enter Australia; and</p> <p>(ii) to reside permanently in Australia.</p>
	Family Law Act 1975	Cth	60CC	<p>This section sets out how a Court determines what is in a child's best interests.</p> <p>If a Court is making an order with the consent of all parties to proceedings it may, but is not required to have regard to the</p>

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				<p>primary considerations and additional considerations set out in sections 60CC(2) and 60CC(3) respectively (section 60CC(5)).</p> <p>The primary considerations (Section 60CC(2)) are:</p> <ul style="list-style-type: none"> (a) the benefit to the child of having a meaningful relationship with both of the child's parents; and (b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence. <p>Section 60CC(2A) states that in applying the considerations set out in subsection(2), the court is to give greater weight to the consideration set out in paragraph (2)(b) (i.e. need to protect the child).</p> <p>The additional considerations (Section 60CC(3)) are:</p> <ul style="list-style-type: none"> (a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child's views; (b) the nature of the relationship of the child with: <ul style="list-style-type: none"> (i) each of the child's parents; and (ii) other persons (including any grandparent or other relative of the child);

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				<p>(c) the extent to which each of the child's parents has taken, or failed to take, the opportunity:</p> <p>(i) to participate in making decisions about major long-term issues in relation to the child; and</p> <p>(ii) to spend time with the child; and</p> <p>(iii) to communicate with the child;</p> <p>(ca) the extent to which each of the child's parents has fulfilled, or failed to fulfil, the parent's obligations to maintain the child;</p> <p>(d) the likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from:</p> <p>(i) either of his or her parents; or</p> <p>(ii) any other child, or other person (including any grandparent or other relative of the child), with whom he or she has been living;</p> <p>(e) the practical difficulty and expense of a child spending time with and communicating with a parent and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with both parents on a regular basis;</p> <p>(f) the capacity of:</p>

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				<p>(i) each of the child's parents; and</p> <p>(ii) any other person (including any grandparent or other relative of the child);</p> <p>to provide for the needs of the child, including emotional and intellectual needs;</p> <p>(g) the maturity, sex, lifestyle and background (including lifestyle, culture and traditions) of the child and of either of the child's parents, and any other characteristics of the child that the court thinks are relevant;</p> <p>(h) if the child is an Aboriginal child or a Torres Strait Islander child:</p> <p>(i) the child's right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture); and</p> <p>(ii) the likely impact any proposed parenting order under this Part will have on that right;</p> <p>(i) the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's parents;</p> <p>(j) any family violence involving the child or a member of the child's family;</p> <p>(k) if a family violence order applies, or has applied, to the child or a member of the child's family--any relevant inferences that can be drawn from the order, taking into</p>

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				<p>account the following:</p> <ul style="list-style-type: none"> (i) the nature of the order; (ii) the circumstances in which the order was made; (iii) any evidence admitted in proceedings for the order; (iv) any findings made by the court in, or in proceedings for, the order; (v) any other relevant matter; (l) whether it would be preferable to make the order that would be least likely to lead to the institution of further proceedings in relation to the child; (m) any other fact or circumstance that the court thinks is relevant.
			60D	<p>This section sets out the obligations of an adviser when giving advice about matters concerning a child which include the consideration that a child's best interests are best met by the child having a meaningful relationship with both parents (see below for specific provisions).</p> <p>If an adviser gives advice or assistance to a person about matters concerning a child and this Part, the adviser must:</p> <ul style="list-style-type: none"> (a) inform the person that the person should regard the best interests of the child as the paramount consideration; and

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				<p>(b) encourage the person to act on the basis that the child's best interests are best met:</p> <p>(i) by the child having a meaningful relationship with both of the child's parents; and</p> <p>(ii) by the child being protected from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(iii) in applying the considerations set out in subparagraphs (i) and (ii)--by giving greater weight to the consideration set out in subparagraph (ii). (Section 60D(1)).</p> <p>An adviser is defined as:</p> <p>(a) a legal practitioner; or</p> <p>(b) a family counsellor; or</p> <p>(c) a family dispute resolution practitioner; or</p> <p>(d) a family consultant. (Section 60D(2))</p>
	Family Law Legislation Amendment (Family Violence and Other Measures Act) 2011	Cth	Schedule 1 (Part 1) Amendments	Sections 16-20 and 22 (of Schedule 1 (Part 1)) amend relevant sections (60CC and 60D respectively) of the Family Law Act 1975. The relevant sections, as amended are set out in the Family Law Act 1975 rows of this table (see above).
	Human Rights and Equal Opportunity	Cth	11	Under Section 11, relevant functions of the Human Rights

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	<p>Commission Act 1986</p>			<p>and Equal Opportunity Commission, include:</p> <p>(e) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments, as the case may be, are, or would be, inconsistent with or contrary to any human right, and to report to the Minister the results of any such examination;</p> <p>(f) to inquire into any act or practice that may be inconsistent with or contrary to any human right, and:</p> <p>(i) where the Commission considers it appropriate to do so - to endeavour, by conciliation, to effect a settlement of the matters that gave rise to the inquiry; and</p> <p>(ii) where the Commission is of the opinion that the act or practice is inconsistent with or contrary to any human right, and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect such a settlement - to report to the Minister in relation to the inquiry;</p> <p>(g) to promote an understanding and acceptance, and the public discussion, of human rights in Australia;</p> <p>(h) to undertake research and educational programs and other programs, on behalf of the Commonwealth, for the purpose of promoting human rights, and to co-ordinate any such programs undertaken by any other persons or authorities on</p>

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				<p>behalf of the Commonwealth;</p> <p>(j) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to human rights;</p> <p>(k) on its own initiative or when requested by the Minister, to report to the Minister as to the action (if any) that, in the opinion of the Commission, needs to be taken by Australia in order to comply with the provisions of the Covenant, of the Declarations or of any relevant international instrument;</p> <p>(m) on its own initiative or when requested by the Minister, to examine any relevant international instrument for the purpose of ascertaining whether there are any inconsistencies between that instrument and the Covenant, the Declarations or any other relevant international instrument, and to report to the Minister the results of any such examination;</p> <p>(n) to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of acts or practices of a kind in respect of which the Commission has a function under paragraph (f);</p> <p>(o) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve human rights issues; and</p> <p>(p) to do anything incidental or conducive to the</p>

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				performance of any of the preceding functions.
			15	Section 15 states that for the purposes of the performance of its functions, the Commission may work with and consult appropriate persons, governmental organisations and non-governmental organisations.
			20	<p>Section 20 sets out the circumstances when the Commission is required to perform its functions (see Section 11 above).</p> <p>For example when:</p> <ul style="list-style-type: none"> (a) the Commission is requested to do so by the Minister; (b) a complaint is made in writing to the Commission alleging that an act or practice is inconsistent with or contrary to any human right; or (c) it appears to the Commission to be desirable to do so.
			Schedule 3	<p>Schedule 3 to the Act is the Declaration of the Rights of the Child. The Declaration includes the following relevant principles:</p> <p><u>Principle 3</u></p> <p>The child shall be entitled from his birth to a name and a nationality.</p> <p><u>Principle 6</u></p> <p>The child, for the full and harmonious development of his</p>

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				<p>personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.</p>
	<p>Human Rights (Parliamentary Scrutiny) Act 2011</p>		<p>3</p>	<p>The definition of Human Rights in section 3(1) includes the rights and freedoms recognised and declared by a number of international instruments including the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4)</p>
			<p>4, 7</p>	<p>The Act establishes a Parliamentary Joint Committee on Human Rights (Section 4), the functions of which are:</p> <p>(a) to examine Bills for Acts, and legislative instruments, that come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the Parliament on that issue;</p> <p>(b) to examine Acts for compatibility with human rights, and to report to both Houses of the Parliament on that issue;</p> <p>(c) to inquire into any matter relating to human rights which is referred to it by the Attorney-General, and to report to both</p>

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				Houses of the Parliament on that matter (Section 7).
			8	<p>Under Section 8(1), a member of Parliament who proposes to introduce a Bill for an Act into a House of the Parliament must cause a statement of compatibility to be prepared in respect of that Bill.</p> <p>A statement of compatibility must include an assessment of whether the Bill is compatible with human rights (Section 8(3)).</p>
	Immigration (Guardianship of Children) Act 1946	Cth	4AA	<p>The act allows orders for the guardianship of certain children to be made.</p> <p>Section 4AA (1) states, Subject to subsection (2), where:</p> <p>(a) a person under the age of 18 years enters Australia as a non-citizen in the charge of, or for the purpose of living in Australia under the care of, a relative of the person (other than a parent) not less than 21 years of age; and</p> <p>(b) the person intends to become, or is intended to become, a permanent resident of Australia;</p> <p>the Minister may, if the Minister is satisfied that it is necessary in the interests of the person to do so, direct, in writing, that the person shall be the Minister's ward.</p> <p>(2) The Minister shall not give a direction under subsection (1) unless the relative consents to the Minister doing so.</p>

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				<p>A relative, importantly, is defined as:</p> <p>(a) a parent of the person; and</p> <p>(b) anyone who is a step-parent of the person or would be except that he or she is not legally married to his or her de facto partner (within the meaning of the Acts Interpretation Act 1901); and</p> <p>(c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) were a relative of the person.</p> <p>A child's right to be cared for by his parents therefore seems to be preserved in that if a parent does not consent to a minister direction that a child should be "the Minister's ward" then the Minister is not allowed to give such a direction.</p>
			6	<p>The Minister shall be the guardian of all non-citizen children who arrive in Australia.</p> <p>Section 6(1) states that the Minister shall be the guardian of the person, and of the estate in Australia, of every non-citizen child who arrives in Australia after the commencement of this Act to the exclusion of the parents and every other guardian of the child, and shall have, as guardian, the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have, until the child reaches the age of 18 years or leaves Australia permanently, or until the provisions of this Act cease to apply to and in relation to the child, whichever first happens.</p>

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			6A	<p>The effect of Section 6A is that a non-citizen child cannot leave Australia without the written consent of the Minister.</p> <p>Section 6A (1) A non-citizen child shall not leave Australia except with the consent in writing of the Minister.</p> <p>(2) The Minister shall not refuse to grant any such consent unless he or she is satisfied that the granting of the consent would be prejudicial to the interests of the non-citizen child.</p> <p>(3) A person shall not aid, abet, counsel or procure a non-citizen child to leave Australia contrary to the provisions of this section.</p> <p>The penalty for breach of this provision is two hundred dollars or imprisonment for six months.</p>
			7	<p>The Minister has the power to place a child in the custody of a custodian.</p> <p>Section 7 states that the Minister may place a non-citizen child in the custody of a person who:</p> <p>(a) is willing to be the custodian of that child; and</p> <p>(b) is, in the opinion of the Minister, a suitable person to be the custodian of that child;</p> <p>and that person shall thereupon become the custodian of that child.</p> <p>(2) The Minister may, at any time, if he or she considers it</p>

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				<p>necessary so to do in the interests of a non-citizen child, remove the child from the custody of his or her custodian and place the child in the custody of some other person, who shall thereupon be the custodian of that child.</p>
			9	<p>A number of offences in relation to the removal of a non-citizen from its custodian have the penalty of two hundred dollars or imprisonment for six months under the Act.</p> <p>Section 9 states that a person shall not, without lawful excuse (proof whereof shall lie upon him or her):</p> <p>(a) remove any non-citizen child, or counsel or cause any non-citizen child to be withdrawn or to abscond, from the custody of his or her custodian; or</p> <p>(b) knowing any non-citizen child to have been so removed or withdrawn or to have so absconded, harbour or conceal the child or prevent him or her from returning to his or her custodian.</p>
			11	<p>Section 11 gives the Minister the power to exclude certain children from the operation of the Act. Specifically,</p> <p>"The Minister may, by order in writing under his or her hand, direct that the provisions of this Act shall not apply in respect of a child specified in the order, or a child included in a class of children so specified, and, while the order is in force, the provisions of this Act do not apply to or in relation to that child or to a child included in that class of children".</p>

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			11A	A person affected by a relevant decision may request reconsideration and review of the decision.
			12	Under Section 12 the Governor-General has the power to make regulations to carry out or give effect to the Act.
	Migration Act 1958		4AA	The Parliament affirms that detention of minors will be a last resort (Section 4AA(1)).
			5CA	<p>Child has a wide definition under the Act and includes, but is not limited to:</p> <p>(a) someone who is a child of the person within the meaning of the <i>Family Law Act 1975</i> (other than someone who is an adopted child of the person within the meaning of that Act);</p> <p>(b) someone who is an adopted child of the person within the meaning of this Act.</p>
			10	<p>Under Section 10, a child who:</p> <p>(a) was born in the migration zone; and</p> <p>(b) was a non-citizen when he or she was born;</p> <p>shall be taken to have entered Australia when he or she was born.</p>
			78	Children born in Australia are entitled to the same visa as held by their parents.

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				<p>Under Section 78(1) If:</p> <ul style="list-style-type: none"> (a) a child born in Australia is a non-citizen when born; and (b) at the time of the birth: <ul style="list-style-type: none"> (i) one of the child's parents holds a visa (other than a special purpose visa); and (ii) the other parent is, under section 83, included in that visa or does not hold a visa (other than a special purpose visa); <p>the child is taken to have been granted, at the time of the birth, a visa of the same kind and class and on the same terms and conditions (if any) as that visa.</p> <p>(2) If:</p> <ul style="list-style-type: none"> (a) a child born in Australia is a non-citizen when born; and (b) at the time of the birth, each of the child's parents holds a visa (other than a special purpose visa); <p>the child is taken to have been granted, at the time of the birth, visas of the same kind and class and on the same terms and conditions (if any) as each of those visas.</p> <p>(3) Subdivisions AA, AB, AC (other than section 68), AE and AH do not apply in relation to visas granted under this section.</p>

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			205	Under section 205(2) where the Minister makes or has made an order for the deportation of a person who does not have a spouse or de facto partner but who does have a dependent child or children, the Minister may, at the person's request, remove a dependent child or children of the person.
	Paid Parental Leave Act 2010	Cth	3A	<p>The objective of the Act makes it clear that the legislation supports the principle in Article 7 that a child, from birth, has, inter alia, the right, as far as possible, the right to know and be cared for by his or her parents.</p> <p>Section 3A of the Act states:</p> <p>(1) The object of this Act is to provide financial support to primary carers (mainly birth mothers) of newborn and newly adopted children, in order to:</p> <ul style="list-style-type: none"> (a) allow those carers to take time off work to care for the child after the child's birth or adoption; and (b) enhance the health and development of birth mothers and children; and (c) encourage women to continue to participate in the workforce; and (d) promote equality between men and women, and the balance between work and family life. <p>(2) Generally, the financial support is provided only to primary carers who have a regular connection to the</p>

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				<p>workforce.</p> <p>(3) The financial support provided by this Act is intended to complement and supplement existing entitlements to paid or unpaid leave in connection with the birth or adoption of a child.</p>
			4	<p>Section 4 is a useful overview of the Act.</p> <p>Note the following:</p> <ul style="list-style-type: none"> • This Act provides for the payment of parental leave pay to a person in the first year after the birth of a child or, for adoption, the placement of a child. • Parental leave pay is paid to a person for a particular period. That period is called the person's PPL period. The maximum period for which any person may be paid parental leave pay is 18 weeks. A person's PPL period may be the full 18 weeks or a lesser period (e.g. where the person is not eligible for parental leave pay for that full period). • Parental leave pay is paid in instalments at the national minimum wage for each week day during the person's PPL period. It is paid by either the person's employer or the Secretary. • Part 2 3 has the rules about eligibility. For the main case, to be eligible a person must (broadly): <p>(a) satisfy the work test, the income test and the Australian</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				residency test; and (b) be the child's primary carer; and (c) not have returned to work; and (d) not be entitled to baby bonus.
	Sex Discrimination Act 1984	Cth	4A	The definition of family responsibilities is found in Section 4A of the Act. (1) In this Act, ' family responsibilities ', in relation to a person, means responsibilities of the person to care for or support: (a) a dependent child of the person; or (b) any other immediate family member who is in need of care and support. (2) In this section: 'child' : without limiting who is a child of a person for the purposes of this section, each of the following is the child of a person: (a) an adopted child, stepchild or exnuptial child of the person; (b) someone who is a child of the person within the meaning of the Family Law Act 1975.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			7A	<p>For the purposes of the Act, an employer discriminates against an employee on the ground of the employee's family responsibilities if:</p> <p>(a) the employer treats the employee less favourably than the employer treats, or would treat, a person without family responsibilities in circumstances that are the same or not materially different; and</p> <p>(b) the less favourable treatment is by reason of:</p> <p>(i) the family responsibilities of the employee; or</p> <p>(ii) a characteristic that appertains generally to persons with family responsibilities; or</p> <p>(iii) a characteristic that is generally imputed to persons with family responsibilities.</p>
			14A	Discrimination on the grounds of family responsibilities is prohibited in employment or superannuation.
			15	Discrimination against commission agents on the grounds of family responsibilities is prohibited.
			16	Discrimination against contract workers on the grounds of family responsibilities is prohibited.
			35	There is an exemption which applies to the residential care of children for discrimination against employees or contract workers.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Section 35 states:</p> <p>(1) Nothing in paragraph 14(1)(a) or (b) or 16(b) renders it unlawful for a person to discriminate against another person on the ground of the other person's sex in connection with a position as an employee or contract worker, where the duties of the position involve the care of a child or children in the place where the child or children resides or reside.</p> <p>(2) Nothing in paragraph 14(1)(a) or (b), 14(2)(c) or 16(b) renders it unlawful for a person to discriminate against another person on the ground of the other person's marital status in connection with a position as an employee or contract worker of a particular employer or principal, where:</p> <p>(a) the duties of the position involve the care of a child or children in the place where the child or children resides or reside; and</p> <p>(b) it is intended that the spouse of the occupant of the position would also occupy a position as an employee or contract worker of that employer or principal.</p>
				<p>There are a number of other exemptions that apply to discrimination on the grounds of a person's family responsibilities:</p> <ul style="list-style-type: none"> • voluntary bodies (paragraph 39); • acts done under statutory authority (paragraph 40).

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	Social Security Act	Cth	197A	<p>The Act provides for the payment of a 'carer' payment in certain circumstances, which include the care of disabled children.</p> <p>Section 197A</p> <p>(1) The following sections set out the circumstances in which a person is qualified for a carer payment:</p> <p>(a) section 197B (child with a severe disability or severe medical condition); and</p> <p>(b) section 197C (2 or more children each with a disability or medical condition); and</p> <p>(c) section 197D (disabled adult and one or more children each with a disability or medical condition); and</p> <p>(d) section 197E (child who has a terminal condition); and</p> <p>(e) section 197F (exchanged care of children); and</p> <p>(f) section 197G (short term or episodic care of children); and</p> <p>(g) section 197H (extension of short term or episodic care of children); and</p> <p>(h) section 198 (disabled adult, or disabled adult and dependent child); and</p> <p>(i) section 198AA (hospitalisation).</p>

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				(2) In addition, sections 198AB and 198AC allow a person to continue to qualify for a carer payment in certain short-term circumstances.
			500	<p>The Act also provides for payment of a parenting payment in certain circumstances. Section 500 sets out the qualifications for the parenting payment:</p> <p>(1) A person is qualified for parenting payment if:</p> <p>(a) the person has at least one PP child (see sections 500D and 500F to 500H); and</p> <p>(b) the person is an Australian resident; and</p> <p>(c) in a case where the person is not a member of a couple and does not have at least one PP child who has not turned 6--the person meets any participation requirements that apply to the person under section 500A; and</p> <p>(ca) in a case where the person is in a class of persons specified by legislative instrument under subsection (2)--the person meets any participation requirements that apply to the person under section 500A; and</p> <p>(d) at least one of the following conditions is satisfied:</p> <p>(i) the person is not a member of a couple and the person was not a lone parent at the start of the person's current period as an Australian resident; or</p> <p>(ii) the person has, at any time, been in Australia for a period</p>

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				<p>of, or periods adding up to, at least 104 weeks during a continuous period throughout which the person was an Australian resident; or</p> <p>(iii) the person has a qualifying residence exemption for parenting payment.</p>
			953	The Act also provides for payment of a carer allowance to a carer of disabled children.
			993 to 1034A	The Act also provides for double orphan payments.

2. New South Wales

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Adoption Act 2000 No 75</p>	<p>NSW</p>	<p>52</p>	<p>This section provides that the Court must not make an adoption order in relation to a child who is less than 18 years of age unless consent has been given:</p> <p>(a) in the case of a child who has not been previously adopted by each parent of the child and any person who has parental responsibility for the child; or</p> <p>(b) in the case of a child who has previously been adopted—by each adoptive parent of, or person who has parental responsibility for, the child.</p>
			<p>53</p>	<p>This section sets out the ways in which consent to the adoption of a child may be given.</p> <p>For the purposes of the Act, a parent of, or person who has parental responsibility for, a child may consent to the adoption of the child only by:</p> <ul style="list-style-type: none"> - giving 'general consent' to the adoption of the child by an adoptive parent or parents selected by the Director-General or principal officer of an accredited adoption service provider, or - giving 'specific consent' to the adoption of the child by specified persons (including a relative of the child, step parent of the child or authorised carer of the child who has

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				<p>had care responsibility for the child for 2 years or more).</p> <p>Nothing in this section prevents the Director-General or principal officer from selecting an adoptive parent or parents from one or more of the classes of persons referred to above in relation to 'specific consent'.</p>
			54	<p>This section sets out the circumstances in which consent to an adoption order is not required.</p> <p>Consent to an adoption order is not required under s52 if:</p> <ul style="list-style-type: none"> - the requirement has been dispensed with by the Court; - the parent whose consent would otherwise be required by section 52 is a proposed adoptive parent; or - the child gives sole consent to his or her adoption (see below); or - the child is 18 or more years of age. <p>A child who is 12 or more years of age and of sufficient maturity to understand the effect of giving consent may give sole consent to his or her adoption by a proposed adoptive parent or parents if the child has been cared for by the proposed adoptive parent or parents for at least 2 years.</p> <p>The Court must not make an adoption order in relation to a child who is less than 18 years of age who gives sole consent to his or her adoption, unless the Court is satisfied that at least 14 days' notice of the application for the adoption order</p>

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				has been given by the Director-General or appropriate principal officer to the parent or person who has parental responsibility whose consent would otherwise be required (or the Court dispenses with the giving of notice.
			55	<p>The Court must not make an adoption order in relation to a child who is 12 or more but less than 18 years of age and who is capable of giving consent unless the child has been counselled as required by section 63 and the counsellor has certified that the child understands the effect of signing the instrument of consent and the child consents to his or her adoption by the prospective adoptive parent or parents or the Court dispenses with the requirement for consent.</p> <p>The Court may make an adoption order in relation to such a child who is incapable of giving consent if the Court is satisfied that the circumstances are exceptional and that it would be in the best interests of the child to make the order.</p>
			56	<p>This section applies if consent to the adoption of a child has been given by the child's birth mother or person who has parental responsibility but not the birth father of the child and</p> <p>an adoption hearing has not been held <i>and</i> the Director-General or appropriate principal officer knows, or after reasonable inquiry ascertains, the name and address of the person whom the Director-General or principal officer reasonably believes to be the birth father of the child.</p> <p>The Director-General or principal officer must give the person known, or reasonably believed, to be the birth father</p>

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				<p>of the child notice:</p> <ul style="list-style-type: none"> - that the child's birth mother or person who has parental responsibility has consented to the adoption of the child, and - advise him of the legal processes by which he can establish paternity in relation to the child or be registered as the father of the child and of his rights as a parent in relation to the adoption of the child.
			66	<p>This section states when the requirement of consent may be dispensed with.</p> <p>A requirement for the consent of a child or any other person to the child's adoption under the Act can be dispensed with if the Court makes an order under Division 3 dispensing with the requirement.</p>
			73	<p>This section sets out the circumstances in which consent to an adoption may be revoked.</p> <p>A child who has given his or her consent to an adoption may revoke his or her consent by giving notice in writing to a nominated officer at any time before the adoption order is made.</p> <p>A person other than a child who has consented to a child's adoption may revoke his or her consent by notice in writing given to the nominated officer before the end of the period of 30 days beginning on the day on which the instrument of consent to the adoption was signed (<i>the revocation period</i>). Consent cannot be revoked after the end of the revocation</p>

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				period.
			Ch 4, Pt 6	This Part provides for the parental responsibility for children between the period when consent to adoption is given and an adoption order made. Parental responsibility is given to the Director-General who has power to decide, for example, whether the child should be placed with temporary authorised carers or the proposed adoptive parents, in this period.
			87	<p>This section sets out the circumstances in which the Court may make an adoption order.</p> <p>The Court may make an adoption order only on application made by the prospective adoptive parent or parents with the consent of the Director-General or the Director-General or by a principal officer on behalf of the prospective adoptive parent or parents a child who is 18 or more years of age for his or her adoption.</p> <p>The consent of the Director-General to an application for an adoption order is not required if the applicant is a step parent or relative of the child or if the application relates to an intercountry adoption.</p>
			90	<p>This section sets out the factors about which the Court must be satisfied before it makes an adoption order.</p> <p>The Court must not make an adoption order in relation to a child unless the Court is satisfied of the following factors:</p> <ul style="list-style-type: none"> - that the best interests of the child will be promoted by the

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				<p>adoption, and</p> <ul style="list-style-type: none"> - that, as far as practicable and having regard to the age and understanding of the child, the wishes and feelings of the child have been ascertained and due consideration given to them; and - if the prospective adoptive parent or parents are persons other than a step parent or relative of the child—that the prospective adoptive parent or parents have been selected in accordance with this Act; and - that consent to the adoption of the child has been given by every person whose consent is required under this Act or that consent has been, or should be, dispensed with; and - if the child is an Aboriginal child—that the Aboriginal child placement principles have been properly applied; and - if the child is a Torres Strait Islander child—that the Torres Strait Islander child placement principles have been properly applied; and - if the child is a non-citizen child from a Convention country or other country outside Australia—that the applicable requirements of this Act and any other relevant law have been satisfied; and - in the case of a child (other than an Aboriginal or Torres Strait Islander child)—that the culture, any disability, language and religion of the child and, as far as possible, that the child’s given names, identity, language and cultural and

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				<p>religious ties have been taken into account in the making of any adoption plan in relation to the adoption.</p> <p>The Court may not make an adoption order:</p> <ul style="list-style-type: none"> - if the parties to the adoption have agreed to an adoption plan, unless it is satisfied that the arrangements proposed in the plan are in the child's best interests and are proper in the circumstances; and - unless it considers that the making of the order would be clearly preferable in the best interests of the child than any other action that could be taken by law in relation to the care of the child.
			92	<p>This section sets out the orders a Court may make concerning parental responsibility for a child in the event it refuses an application for an adoption order.</p> <p>If the Court refuses an application for an adoption order, the Court may make such orders in relation to the parental responsibility for the child concerned as it thinks fit, including, if the child is less than 18 years of age, an order declaring the child to be under the parental responsibility of the Minister administering the <i>Children and Young Persons (Care and Protection) Act 1998</i>.</p>
			95	<p>This section sets out the rights as between adoptive parents and an adoptive child once an adoption order is made by the Court.</p> <p>An adoption order made by the Court gives sole parental</p>

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				<p>responsibility for a child to the person or persons named in the order ('the adoptive parent or adoptive parents').</p> <p>For the purposes of the law of New South Wales, if an adoption order is made:</p> <ul style="list-style-type: none"> - the adopted child has the same rights in relation to the adoptive parent, or adoptive parents, as a child born to the adoptive parent or adoptive parents; and - the adoptive parent or adoptive parents have the same parental responsibility as the parent or parents of a child born to the adoptive parent or adoptive parents; and - the adopted child is regarded in law as the child of the adoptive parent or adoptive parents and the adoptive parent or adoptive parents are regarded in law as the parents of the adopted child; and - the adopted child ceases to be regarded in law as the child of the birth parents and the birth parents cease to be regarded in law as the parents of the adopted child.
			101	<p>This section relates to the names of adopted children.</p> <p>On the making of an adoption order:</p> <ul style="list-style-type: none"> - an adopted child who is 18 or more years old is (unless he or she decides otherwise) to have the same surname and given name or names as he or she used immediately before the order is made; and

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				<p>- an adopted child who is less than 18 years of age is to have as his or her surname and given name or names such name or names as the Court, in the adoption order, approves on the application of the adoptive parent or parents.</p> <p>Before changing the surname or given name or names of a child, the Court must consider any wishes expressed by the child and any factors (such as the child's maturity or level of understanding) that the Court thinks are relevant to the weight it should give to the child's wishes.</p> <p>If, before the making of the adoption order, the adopted child has been generally known by a particular surname, the Court may, in the adoption order, order that the child is to have that name as his or her surname.</p> <p>An approval of a change in the given name or names of a child who is over the age of 12 years must not be given by the Court unless the child has, in a consent given under section 55, consented to the change.</p> <p>The Court must not approve a change in the given name or names of a child who is more than one year old, or a non-citizen child, unless the Court is satisfied that the name change is in the best interests of the child.</p> <p>Nothing in this section prevents the changing of any name of an adopted child, after the making of the adoption order, under the law of New South Wales.</p>
			133C	This section sets out an adopted person's entitlement to receive his or her original birth certificate and other

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				<p>prescribed information.</p> <p>An adopted person is entitled to receive (subject to this Act) the person's original birth certificate and his or her adopted person's birth record and any prescribed information relating to the adopted person held by an information source (including prescribed information relating to the adopted person's birth parents, siblings and adopted brothers and sisters).</p> <p>Despite the above, an intercountry adopted person is entitled to receive his or her original birth certificate only if such a certificate is held by an information source.</p> <p>An adopted person who is less than 18 years of age is not entitled to receive his or her original birth certificate or adopted person's birth record, or prescribed information, except with the consent of his or her surviving adoptive parents, or the Director-General (if there are no surviving adoptive parents 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).</p>
			210	Incorporates (in Schedule 1) the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.
	Births, Deaths and Marriages Registration Act 1995 No 62	NSW	4	<p>Definitions</p> <ul style="list-style-type: none"> • 'birth' includes a stillbirth. • 'birth certificate' means a certificate issued under section

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				<p>49 as to the particulars contained in an entry in the Register in relation to a person's birth.</p> <ul style="list-style-type: none"> • 'child' includes a stillborn child. <p>'registrable event' includes, relevantly, a birth, adoption or discharge of adoption.</p>
			12	<p>This section contains the requirement for a responsible person to give notice of a child's birth to the Registrar.</p> <p>When a child is born in the State, the responsible person must give notice of the birth to the Registrar in a form and manner required by the Registrar, specifying the particulars required by the regulations.</p> <p>The notice must be given in the case of a child born alive, within 7 days after birth.</p> <p>The notice must be given in the case of a stillbirth, within 48 hours after stillbirth.</p> <p>'responsible person' means:</p> <p>(a) in the case of a child born in a hospital or brought to a hospital within 24 hours after birth—the chief executive officer of the hospital; or</p> <p>(b) if the child was not born in a hospital or brought to a hospital within 24 hours after birth, and a doctor or midwife was responsible for the professional care of the birth mother</p>

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			18	<p>at the birth—that doctor or midwife.</p> <p>This section relates to the registration of details of a child's parentage.</p> <p>The section provides that The Registrar must not include registrable information about the identity of a child's parent in the Register unless:</p> <ul style="list-style-type: none"> - both parents of the child make a joint application for the inclusion of the information; or - one parent of the child makes an application for the inclusion of the information and the other parent cannot join in the application because he or she is dead or cannot be found, or for some other reason; or - one parent of the child makes an application for the inclusion of the information and the Registrar is satisfied that the other parent does not dispute the correctness of that information; or - a court orders the inclusion of the information in the Register; or - a court makes a finding that a particular person is a parent of the child; or - the Registrar is entitled under any law (including a law of another State or the Commonwealth) to make a presumption as to the identity of the child's parent; or

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				(g) the regulations authorise the Registrar to include the information.
			21	<p>This section relates to the name of a child.</p> <p>The birth registration statement must state the name of the child.</p> <p>However, the Registrar may assign a name to the child if:</p> <ul style="list-style-type: none"> - the name stated in the birth registration statement is a prohibited name; or - the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.
			13	<p>This section sets out the procedure in the event of a dispute about a child's name.</p> <p>If there is a dispute between parents about a child's name, either parent may apply to the District Court for a resolution of the dispute.</p> <p>The District Court may:</p> <ul style="list-style-type: none"> - resolve the dispute about the child's name as the Court considers appropriate; and - order the Registrar to register the child's name in a form specified in the order.

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				If any court (including any court of another State or the Commonwealth) resolves a dispute about a child's name, the court may order the Registrar to register the child's name in a form specified in the order.
			Part 4A, s25B, 25C, 25D, 25E	<ul style="list-style-type: none"> Part 4A relates to the registration of parentage orders under the <i>Surrogacy Act</i>. Parentage orders are orders made the Court under the <i>Surrogacy Act</i> for the transfer of the parentage of a child.
			25D	<p>This section provides for the issuing of a birth certificate to a person the subject of a surrogacy arrangement.</p> <p>A birth certificate for the person must not include any information that indicates that the person was the child of a surrogacy arrangement.</p> <p>However, the Registrar must, if the Registrar issues a birth certificate to the person to whom it relates, and the person is at least 18 years of age, attach an addendum to the certificate that indicates that further information is available about the entry.</p> <p>This section applies whether or not the person's birth has been registered under this Act.</p>
			28	<p>This section contains the requirements for an application to register change of a child's name.</p> <p>The parents of a child may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the</p>

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				<p>child's name if:</p> <ul style="list-style-type: none"> - the child's birth is registered in the State; or - the child was born outside Australia, the child's birth is not registered in Australia and the child has been resident in the State for at least 3 consecutive years immediately preceding the date of the application. <p>If the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child, the application may be made by a person to whom a court within Australia has allocated:</p> <ul style="list-style-type: none"> - parental responsibility for the child; or - specific aspects of parental responsibility for the child so long as the making of the application is not outside the scope of the aspects allocated. <p>If there is more than one such person referred to in subsection above, the application may be made only as a joint application of those persons.</p> <p>An application for registration of a change of a child's name may be made by one parent if:</p> <ul style="list-style-type: none"> - the applicant is the sole parent named in the registration of the child's birth under this Act or any other law (including a corresponding law); or

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				<ul style="list-style-type: none"> - there is no other surviving parent of the child; or - a court approves the proposed change of name. <p>The District Court may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.</p> <p>If any court (including any court of another State or the Commonwealth) approves a proposed name for a child, the court may order the Registrar to register the child's name in a form specified in the order.</p> <p>In this section, 'parental responsibility', in relation to a child, means all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children.</p>
			29	<p>This section relates to the child's consent to a change of name.</p> <p>A change of a child's name must not be registered unless:</p> <ul style="list-style-type: none"> - the child consents to the change of name, or - the child is unable to understand the meaning and implications of the change of name.

3. Victoria

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Adoption Act 1984</p>	<p>Victoria</p>	<p>33</p>	<p>Before a Court makes an order for the adoption of a child it must be satisfied that the appropriate persons have consented to the adoption (the appropriate persons include the mother and father of the child (see act for specific definitions and relevant circumstances)).</p> <p>The consents required to adoptions are set out in Section 33:</p> <p>(1) Subject to this Division, the Court shall not make an order for the adoption of a child unless the Court is satisfied:</p> <p>(a) that:</p> <p>(i) consent (not being a consent that has been revoked) to the adoption has been given in accordance with this Division by the appropriate person or persons ascertained in accordance with this section; and</p> <p>(ii) the requirements of section 35 were complied with; or</p> <p>(b) that there is not an appropriate person within the meaning of this section to give consent to the adoption.</p> <p>(2) In the case of a child whose parents were married to each other at the time of its birth or at or after the time of its conception but before its birth and who has not previously been adopted, the appropriate persons are every person who</p>

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				<p>is the mother or the father of the child.</p> <p>(3) In the case of a child whose parents were not so married to each other and who has not previously been adopted, the appropriate persons are every person who is the mother of the child or a man:</p> <p>(a) whose name is entered in the entry relating to the child in a register of births (whether in Victoria or in a place outside Victoria) as the father of the child; or</p> <p>(b) who is declared to be the father of the child under a declaration of paternity in force under section 10 of the Status of Children Act 1974, being a declaration a copy of which is filed under section 9(3) of that Act in the office of the Registrar; or</p> <p>(c) against whom an order has been made under section 10 or 12 of the Maintenance Act 1965 in respect of the child, being an order a copy of which is filed in the office of the Registrar under section 9(3) of the Status of Children Act 1974; or</p> <p>(d) who is named in an instrument filed in the office of the Registrar under section 9(1) of the Status of Children Act 1974 that acknowledges that he is the father of the child; or</p> <p>(e) who has lodged with the Secretary or with the approved agency by which the arrangements for the adoption are being made evidence that:</p>

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				<p>(i) an order has been made outside Victoria that, under section 8(5) of the Status of Children Act 1974 is prima facie evidence that he is the father of the child; or</p> <p>(ii) he is, or has at any time, been liable, under an order of the Family Court of Australia for the maintenance of the child; or</p> <p>(iii) he has at any time, under an order of the Family Court of Australia, been granted access to or custody or guardianship of the child.</p> <p>(4) Where there is evidence that a man is not the father of a child, that man is not, by reason only of paragraph (e) of subsection (3), an appropriate person for the purposes of that subsection in the case of that child.</p> <p>(5) In the case of a child who has previously been adopted, the appropriate persons are every person who is an adoptive parent of the child.</p> <p>(6) In the case of a child who is a non-citizen child, the appropriate person is the person who, under the Immigration (Guardianship of Children) Act 1946 of the Commonwealth as amended and in force for the time being, is the guardian of the child or, where that guardian has under that Act, delegated his powers and functions as guardian to another person, that other person.</p> <p>(7) This section does not apply in the case of a child who has attained the age of eighteen years before the making of the</p>

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				adoption order.
			48	<p>A natural parent retains the right of access to their child after giving consent to adoption (Section 48):</p> <p>(1) Notwithstanding that, under section 46, the Secretary or the principal officer of an adoption agency is the guardian of a child, a person who is a parent of the child who has given consent to the adoption of the child may, subject to subsection (2), visit the child during the period during which the consent may be revoked.</p> <p>(2) The Court, on the application of the Secretary or principal officer may, by order, restrict the occasions on which or times at which a parent may, under this section, visit a child.</p>
			59A	<p>An adoption order may be made subject to the condition that a parent has access to a child and/or is provided information about the child.</p> <p>Section 59A states that</p> <p>Where the Court is satisfied:</p> <p>(a) that circumstances exist which make it desirable so to do, whether by reason of the age of the child or otherwise; and</p> <p>(b) that the parent or parents and the adoptive parent or adoptive parents have, after consent to the adoption was given, agreed that the adoption order should be made subject</p>

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				<p>to certain conditions- the adoption order may be made subject to either or both of the following conditions:</p> <p>(c) a condition that a parent or both parents or such other relatives of the child as are specified in the order or both the parent or parents and relatives so specified have such right to have access to the child as is specified in the order;</p> <p>(d) a condition that the adoptive parent or adoptive parents of the child provide information about the child to the Secretary or principal officer of an approved agency to be given to the parent or parents at such periods and in accordance with such terms as are specified in the order.</p>
			69H	<p>Any of the parties to an adoption may apply to the Court for an order terminating the relationship between the child and the persons who were, immediately before the adoption, the child's parents in accordance with Section 69H.</p> <p>(1) If:</p> <p>(a) a child who was or is habitually resident in a Convention country was adopted in a Convention country; and</p> <p>(b) the adoption was by a person who is habitually resident in Victoria; and</p> <p>(c) the laws of the Convention country do not provide that the adoption of the child terminates the legal relationship between the child and the persons who were, immediately</p>

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				<p>before the adoption, the child's parents:</p> <p>any of the parties to the adoption may apply to the Court for an order that the adoption of the child terminates the legal relationship between the child and the persons who were, immediately before the adoption, the child's parents.</p> <p>(2) The Court may make an order on an application under subsection (1) if satisfied that:</p> <p>(a) an adoption compliance certificate issued in the Convention country is in force for the adoption; and</p> <p>(b) the laws of the Convention country do not provide that the adoption of a child terminates the legal relationship between the child and the persons who were, immediately before the adoption, the child's parents; and</p> <p>(c) the child is allowed:</p> <p>(i) to enter Australia; and</p> <p>(ii) to reside permanently in Australia.</p>
			77	<p>Entries in the Adopted Children Register are also to be made in the Index of Births.</p> <p>1) The Registrar shall, without making a distinction between entries in the</p> <p>Register of Births and entries in the Adopted Children</p>

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				<p>Register, make in the</p> <p>General Index of Births an entry of the necessary particulars of each entry made in the Adopted Children Register.</p> <p>(2) The index referred to in subsection (1) shall be open for search subject to the provisions of the Births, Deaths and Marriages Registration Act 1996.</p>
			78	<p>The right of an adopted child to know his parents is preserved by Section 78 which allows an adopted person or the parent of an adopted person to apply under the Births, Deaths and Marriages Registration Act 1996 to the Registrar for an extract from or copy of an entry in the Register of Births relating to the birth of the adopted person.</p>
			94	<p>A person under age eighteen may apply for information including the identity of his/her natural parents but such information must not be provided unless the agreement in writing of the adopted parent or guardian has been given.</p> <p>Section 94 states:</p> <p>(1) An adopted person who has not attained the age of eighteen years may make application to a relevant authority for:</p> <p>(a) information about the adopted person (other than information from which the identity of either of the natural parents of the adopted person may be ascertained, whether directly or indirectly) from the records of the relevant</p>

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				<p>authority, or, where the application is made to the Secretary, from the records of the Secretary, an agency, another body or a person; and</p> <p>(b) subject to subsection (2), information from the records of the relevant authority, or, where the application is made to the Secretary, from the records of the Secretary, an agency, another body or a person, being information about the adopted person from which the identity of either of the natural parents of the adopted person may be ascertained.</p> <p>(2) An application for information referred to in paragraph (a) or (b) of subsection (1) shall be accompanied by the agreement in writing, or evidence of the death, of each adoptive parent of the adopted person or the agreement in writing of the guardian of the adopted person (if the guardian is not an adoptive parent).</p> <p>(3) There shall not be given to an applicant under this section any information to which paragraph (b) of subsection (1) applies from which the identity of a natural parent of the applicant may be ascertained unless the relevant authority has obtained the agreement in writing, or evidence of the death of, that natural parent.</p>
			117	<p>It is an offence under the Act for a natural parent to take away an adopted child.</p> <p>Section 117 states:</p> <p>Any person who was the father or mother or a guardian of a</p>

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				child but is not, by reason of an adoption of the child, to be treated in law as the father or mother or a guardian of the child who takes, leads, entices, or decoys the child away or detains the child, with intent to deprive the adoptive parent or adoptive parents of the child shall be guilty of an offence and liable to a penalty of not more than 25 penalty units or to imprisonment for a term of not more than 6 months or both.
			118	<p>It is an offence under the Act for a person to receive or harbour an adopted child.</p> <p>Section 118 states:</p> <p>Any person who receives or harbours a child on behalf of a person who, to his knowledge has taken, led enticed or decoyed the child away, or is detaining the child, in contravention of section 117, shall be guilty of an offence and liable to a penalty of not more than 25 penalty units or to imprisonment for a term of not more than 6 months or both.</p>
	Births, Deaths and Marriages Registration Act 1996	Victoria	12	<p>When a child is born in Victoria notice of birth must be given to the registrar after birth in accordance with Section 12 of the Act.</p> <p>(1) When a child is born in the State, the responsible person must give notice of the birth to the Registrar including any particulars required by the Registrar.</p> <p>Penalty: 10 penalty units.</p>

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				<p>(2) Notice under subsection (1) may be given:</p> <p>(a) in writing; or</p> <p>(b) in any other manner approved by the Registrar by notice published in the Government Gazette.</p> <p>(3) The notice must be given:</p> <p>(a) in the case of a child born alive, within 21 days after the birth;</p> <p>(b) in the case of a still-birth, within 48 hours after the birth.</p>
			13	<p>The Act sets out the circumstances where a birth must, or alternatively may, be registered in Victoria.</p> <p>Section 13 states:</p> <p>(1) If a child is born in the State, the birth must be registered under this Act.</p> <p>(2) If a court orders the registration of a birth, the birth must be registered under this Act.</p> <p>(3) A birth may be registered under this Act if a child is born-(a) in an aircraft during a flight to a place of disembarkation in the State; or</p> <p>(b) on a vessel during a voyage to a place of disembarkation</p>

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				<p>in the State.</p> <p>(4) If a child is born outside the Commonwealth, but the child is to become a resident of the State, the birth may be registered under this Act.</p> <p>(5) The Registrar may refuse to register a birth under subsection (3) or (4) if the birth is registered under a corresponding law.</p>
			14	<p>The form of registering a child's birth is set out in Section 14 of the Act.</p> <p>A person has the birth of a child registered under this Act by lodging a birth registration statement with the Registrar in a form and manner required by the Registrar specifying any prescribed particulars.</p>
			15	<p>Section 15 states who has responsibility for registering a child's birth. The parents have joint responsibility but the Act for provides for registration of a birth by other persons.</p> <p>Section 15 states</p> <p>(1) The parents of a child are jointly responsible for having the child's birth registered under this Act and must both sign the birth registration statement but the Registrar may accept a birth registration statement from one of the parents if satisfied that it is not practicable to obtain the signatures of both parents on the birth registration statement.</p>

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				<p>(2) If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered.</p> <p>(3) The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that:</p> <p>(a) the person lodging the statement has knowledge of the relevant facts; and</p> <p>(b) the child's parents are unable or unlikely to lodge a birth registration statement.</p>
			18	<p>The person responsible for registering the birth of a child must do so within 60 days.</p> <p>Section 18 states:</p> <p>(1) A person responsible for having the birth of a child registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth.</p> <p>Penalty: 10 penalty units.</p> <p>(2) However, the Registrar must accept a birth registration statement even though it is lodged after the end of the 60 day period.</p> <p>(3) The Registrar may request that further information be provided to support the birth registration statement at any</p>

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				time before the Registrar registers the birth.
				<p>The Court may order registration of a child's birth under Section 20 of the Act.</p> <p>Section 20 states:</p> <p>(1) The Court may, on application by an interested person or on its own initiative, order:</p> <p>(a) the registration of a birth; or</p> <p>(b) the inclusion of registrable information about a birth or a child's parents in the Register.</p> <p>(2) If a court (including a court of another State or the Commonwealth) finds that:</p> <p>(a) the birth of a person is not registered as required under this Act or a corresponding law; or</p> <p>(b) the registrable information contained in an entry about a birth in the Register under this Act or a corresponding law is incomplete or incorrect:</p> <p>the court may direct registration of the birth or the inclusion or correction of registrable information in the Register under this Act or the corresponding law (as the case may require).</p>
			27	A change of name for a child must not be registered unless a

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				<p>child aged 12 years or more gives consent under section 27.</p> <p>Section 27 states:</p> <p>A change of a name of a child aged 12 years or more must not be registered unless:</p> <p>(a) the child consents to the change of name; or</p> <p>(b) the child is unable to understand the meaning and implications of the change of name.</p>
	<p>Charter of Human Rights and Responsibilities Act 2006</p>	<p>Victoria</p>	<p>17</p>	<p>Section 17 of the Act provides for the protection of children and families.</p> <p>(1) Families are the fundamental group unit of society and are entitled to be protected by society and the State.</p> <p>(2) Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.</p>
	<p>Child Wellbeing and Safety Act 2005</p>		<p>5</p>	<p>The Act sets out the fundamental principles upon which services for children and families should be based which includes the principle that "parents are the primary nurturers of a child"</p> <p>Section 5 states:</p> <p>(1) The development and provision of services for children and families should be based upon the fundamental principles</p>

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				<p>that:</p> <p>(a) society as a whole shares responsibility for promoting the wellbeing and safety of children; and</p> <p>(b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background; and</p> <p>(c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing; and</p> <p>(d) parents are the primary nurturers of a child and Government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing, however, it is the responsibility of Government to meet the needs of the child when the child's family is unable to provide adequate care and protection; and</p> <p>(e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre.</p> <p>(2) Services for children and families should be designed and developed:</p> <p>(a) to readily identify harm and damage to the child and to provide for intervention by providers of services to remove or ameliorate the causes of that harm or damage and to strengthen the capacity and efforts of parents, their families</p>

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				<p>and communities to support the child as early as possible in the child's life; and</p> <p>(b) to accord with the needs of each local community with the active involvement of that community's cultural groups, and to be accessible and responsive to the particular cultures, languages and circumstances of the community and to be properly planned and co-ordinated with services provided by other local and regional communities; and</p> <p>(c) to give the highest priority to making appropriate and sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need; and</p> <p>(d) to promote continuous improvement in the quality of those services, based on the best available knowledge of the needs of children and their stages of development.</p> <p>(3) The providers of services to children and families should:</p> <p>(a) protect the rights of children and families and, to the greatest extent possible, encourage their participation in any decision-making that affects their lives; and</p> <p>(b) acknowledge and be respectful of the child's individual identity, circumstances and cultural identity and be responsive to the particular needs of the child; and</p> <p>(c) make decisions about intervention by the providers of services into a child's or family's life and about access by a</p>

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				<p>child or family to those services in a timely manner being mindful of any harmful effects that may be caused to the child by a delay in making decisions or providing services; and</p> <p>(d) ensure that families are made aware of the services available to them and of the benefits these services can provide, especially to those families in most need of assistance; and</p> <p>(e) co-operate with other services or professionals to work in the interests of the child and family.</p>
				<p>The Act provides for the early notification of births under section 43:</p> <p>(1) If a child is born in Victoria notice of the birth of the child (the birth notice) must be given by the responsible person to:</p> <p>(a) the Chief Executive Officer of the council of the municipal district in which the mother of the child usually resides; or</p> <p>(b) if the municipal district is not known to the person giving notice, the Chief Executive Officer of the council of the municipal district in which the birth occurs; or</p> <p>(c) if the mother of the child usually resides outside Victoria, the Secretary.</p>

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				<p>(2) The notice must be in the prescribed form.</p> <p>(3) In this section, responsible person has the same meaning as it has in section 12 of the Births, Deaths and Marriages Registration Act 1996.</p>
			44	<p>Section 44 prescribes the form of birth notice which must be given within 48 hours or such longer prescribed period:</p> <p>(1) The birth notice must be given:</p> <p>(a) personally; or</p> <p>(b) by post; or</p> <p>(c) by facsimile transmission; or</p> <p>(d) by electronic communication.</p> <p>(2) The birth notice must be given within:</p> <p>(a) 48 hours after the birth to which the notice relates; or</p> <p>(b) if a longer period is prescribed in respect of a particular municipal district, that longer period.</p>
			46	<p>It is an offence under the Act to fail to give notice of a child's birth.</p> <p>Section 46 states:</p> <p>(1) Any person who fails to give notice of a birth in</p>

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				<p>accordance with this Part is guilty of an offence and is liable to a penalty of not more than 1 penalty unit.</p> <p>(2) It is a defence to a prosecution for an offence under subsection (1) if the person:</p> <p>(a) satisfies the court that he or she had reasonable grounds to believe that notice had been duly given by another person; or</p> <p>(b) had other reasonable grounds for not giving the notice.</p>
	Children, Youth and Families Act 2005	Victoria	10	<p>When determining what decision to make or action to take in the best interests of the child, consideration must be given to specific principles set out in Section 10 of the Act. For example principle (3) (b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child; and principle (3) (g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child;</p> <p>Section 10 of the Act states:</p> <p>(1) For the purposes of this Act the best interests of the child must always be paramount.</p> <p>(2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of</p>

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				<p>development) must always be considered.</p> <p>(3) In addition to subsections (1) and (2), in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action:</p> <p>(a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child; and</p> <p>(b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child; and</p> <p>(c) the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community; and</p> <p>(d) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances; and</p> <p>(e) the effects of cumulative patterns of harm on a child's safety and development; and</p> <p>(f) the desirability of continuity and stability in the child's</p>

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				<p>care; and</p> <p>(g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child; and</p> <p>(h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered; and</p> <p>(i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent; and</p> <p>(j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child; and</p> <p>(k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child; and</p> <p>(l) the child's social, individual and cultural identity and religious faith (if any) and the child's age, maturity, sex and sexual identity; and</p> <p>(m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of</p>

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				<p>that cultural community, the desirability of the child retaining a connection with their culture; and</p> <p>(n) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities; and</p> <p>(o) the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance; and</p> <p>(p) the possible harmful effect of delay in making the decision or taking the action; and</p> <p>(q) the desirability of siblings being placed together when they are placed in out of home care; and</p> <p>(r) any other relevant consideration.</p>
			142	<p>If there is a short-term child care agreement in place a child must be returned to its parent on the expiry or termination of the agreement.</p> <p>Section 142 states:</p> <p>On the expiry or termination of a short-term child care agreement, the person having the care of the child must, as soon as is practicable, cause the child to be returned to his or her parent.</p>

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	Equal Opportunity Act 2010	Victoria	6	Discrimination on the grounds of parental status or status as a carer is prohibited under the Act (Section 6(1)).
			16	Discrimination in various areas is prohibited under the Act, including, for example, against job applicants (Section 16).
			17	<p>An employer must accommodate responsibilities as parent or carer of person offered employment.</p> <p>Section 17 states:</p> <p>(1) An employer must not, in relation to the work arrangements of a person offered employment, unreasonably refuse to accommodate the responsibilities that the person has as a parent or carer.</p>
			22	<p>The responsibilities that a contract worker has as a parent or carer are recognised by Section 22 of the Act.</p> <p>Section 22 states:</p> <p>(1) A principal must not, in relation to the work arrangements of a contract worker, unreasonably refuse to accommodate the responsibilities that the contract worker has as a parent or carer.</p> <p>Example</p> <p>A principal may be able to accommodate a contract worker's responsibilities as a parent or carer by allowing the contract</p>

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				<p>worker to have flexible start, finish or break times.</p> <p>(2) In determining whether a principal unreasonably refuses to accommodate the responsibilities that a contract worker has as a parent or carer, all relevant facts and circumstances must be considered, including:</p> <p>(a) the contract worker's circumstances, including the nature of his or her responsibilities as a parent or carer; and</p> <p>(b) the nature of the work contracted for; and</p> <p>(c) the nature of the arrangements required to accommodate those responsibilities; and</p> <p>(d) the financial circumstances of the principal; and</p> <p>(e) the size and nature of the workplace and the principal's business; and</p> <p>(f) the effect on the workplace and the principal's business of accommodating those responsibilities, including:</p> <p>(i) the financial impact of doing so;</p> <p>(ii) the number of persons who would benefit from or be disadvantaged by doing so;</p> <p>(iii) the impact on efficiency and productivity and, if applicable, on customer service of doing so; and</p>

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				<p>(g) the consequences for the principal of making such accommodation; and</p> <p>(h) the consequences for the contract worker of not making such accommodation.</p>
			32	<p>A firm must accommodate responsibilities as parent or carer of person invited to become a partner or of a partner under Section 32 of the Act.</p> <p>Section 32 states:</p> <p>(1) A firm comprising 5 or more partners must not, in the work arrangements of a person invited to become a partner or of a partner, unreasonably refuse to accommodate the responsibilities that the person or partner has as a parent or carer.</p>
	Family Violence Protection Act 2008	Victoria	47	<p>The principle that a child has a right to be cared for by his parents appears to have been considered in the drafting of the Act.</p> <p>Under Section 47 an application for protection of a child may be included in application for protection of child's parent.</p> <p>Section 47(1) states:</p> <p>An application for a family violence intervention order for an affected family member who is a child may be included in an application for the protection of the child's parent if the</p>

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				applications arise out of the same or similar circumstances.
	Guardianship and Administration Act 1986	Victoria	23(3)	<p>A parent may be proposed as a suitable guardian but the proposed represented person's interests are paramount when considering a parent's eligibility.</p> <p>Section 23(3) states:</p> <p>Where a parent or nearest relative of a proposed represented person is proposed as the guardian that person is not by virtue only of the fact that that person is a parent or nearest relative to be taken to be in a position where the person's interests conflict or may conflict with those of the proposed represented person.</p>
	Human Services (Complex Needs) Act 2009	Victoria	21	<p>Notice of a care plan (under the <i>Human Services (Complex Needs) Act 2009</i>) must be given to a child's parent or guardian.</p> <p>Section 21 states:</p> <p>A care plan or any notice required to be given to a person under section 9, 10 or 15 must also be given:</p> <p>(a) in the case of a person under 18 years of age who has a parent or guardian, to the parent or guardian; and</p> <p>(b) in the case of a person who has attained 18 years of age and in respect of whom a guardian has been appointed under the Guardianship and Administration Act 1986, to the</p>

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				guardian.
	Maintenance Act 1965	Victoria	5 (Subdivision 2); Section 9 (Subdivision 4 and Subdivision 5)	<p>The Act provides for orders to be made against parents for the maintenance of their children. For example:</p> <p>Section 5 Subdivision 2-Orders against husbands for maintenance of wives and against parents for maintenance of children; and</p> <p>Section 9 Subdivision 4-Orders against unmarried fathers or mothers for maintenance of children; and</p> <p>Section 9 Subdivision 5-Orders against putative fathers for preliminary expenses and for maintenance of unborn children.</p>
	Status of Children Act 1974	Victoria	3	<p>The Act proclaims that all children are to be of equal status.</p> <p>Section 3 states:</p> <p>(1) For all the purposes of the law of Victoria the relationship between every person and his father and mother shall be determined irrespective of whether the father and mother are or have been married to each other and all other relationships shall be determined accordingly.</p> <p>(2) The rule of construction whereby in any instrument, in the absence of expression of any intention to the contrary, words of relationship signify only legitimate relationship is abolished.</p>

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				(3) For the purpose of construing any instrument the use, with reference to relationship of a person, of the words ' legitimate ' or ' lawful ' shall not of itself prevent the relationship from being determined in accordance with the provisions of subsection (1).
			5	<p>The Act includes a presumption of parenthood where a child is born within 10 months of a marriage.</p> <p>Section 5 states:</p> <p>"A child born to a woman during her marriage or within ten months after the marriage has been dissolved by death or otherwise shall, in the absence of evidence to the contrary, be presumed to be the child of its mother and her husband, or former husband, as the case may be".</p>
			8	<p>The Act includes a section dealing with evidencing a child's parentage.</p> <p>Section 8 states:</p> <p>(1) Where the name of a parent of a child is entered in the register of births in the Register maintained under the Births, Deaths and Marriages Registration Act 1996 in relation to the child a certified copy of the entry purporting to be made or given under section 46 of that Act shall be prima facie evidence that the person named as a parent is a parent of the child.</p> <p>(2) An instrument signed by the mother of a child and by any</p>

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				<p>person acknowledging that he is the father of the child shall, if executed as a deed or by each of those persons in the presence of a legal practitioner, be prima facie evidence that the person named as the father is the father of the child.</p> <p>(2A) An instrument signed by the mother of a child and any person certifying that she is the non-birth mother of the child is, if executed as a deed or by each of those persons in the presence of a legal practitioner, prima facie evidence that the person named as the non-birth mother is a parent of the child.</p>
			9	<p>Documents (instruments) evidencing a child's parentage are to be filed with the Registrar of Births, Deaths and Marriages.</p> <p>Section 9 states:</p> <p>(1) Any instrument of the kind described in subsection (2) or (2A) of section 8 or a copy thereof may be filed in the office of the Registrar of Births, Deaths and Marriages upon payment of the prescribed fee.</p> <p>(2) The Registrar of Births, Deaths and Marriages shall cause indexes of all instruments and copies filed with him under subsection (1) to be made and kept in his office and shall, upon request made by or on behalf of a party to an instrument so filed or a child referred to in any such instrument or a guardian or relative of that child cause a search of any index to be made and shall permit that person to inspect any such instrument or copy if he is satisfied that the person has a direct and proper interest in the matter.</p>

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				(3) Where the Supreme Court makes a declaration of parentage under section 10 the proper officer of the court shall forward a copy of the declaration or order to the Registrar of Births, Deaths and Marriages for filing in his office under this section and on receipt of any such copy the Registrar of Births, Deaths and Marriages shall file it accordingly as if it were an instrument of the kind referred to in subsection (2) or (2A) of section 8.
			Part II; Part III; and Part IV	<p>The Act includes provisions declaring the status and parents of a child born following medical procedures including artificial insemination, donor ovum to:</p> <ul style="list-style-type: none"> (a) women with a male partner; and (b) women with a female partner or without a partner; and (c) surrogate mothers. <p>The spirit of the Act seems to be providing certainty as to a child's status and the status of its parents.</p>
			Part IV (Division 2)	Under Part IV Division 2, the commissioning parents of a child born under a surrogacy arrangement may apply to the Court for a substitute parentage order.
			Part IV (Section 31)	Under Section 31, a Court making a substitute parentage order or a discharge order must serve a copy of the order on the Registrar of Births, Deaths and Marriages.

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				<p>Section 31 states:</p> <p>The court must serve a sealed copy of the order on the Registrar of Births, Deaths and Marriages if the court makes either of the following orders:</p> <p>(a) a substitute parentage order; or</p> <p>(b) a discharge order.</p>
			37	<p>The Act also includes provisions declaring the status of a child if the male partner is deceased.</p> <p>Section 37 states:</p> <p>1) This section applies if:</p> <p>(a) a woman undergoes a treatment procedure in accordance with Part 5 of the <i>Assisted Reproductive Treatment Act 2008</i> as a result of which she becomes pregnant; and</p> <p>(b) either of the following applies:</p> <p>(i) the semen used in the procedure:</p> <p>(A) was produced by the woman's partner before his death; or</p> <p>(B) was collected from the woman's partner after his death; or</p>

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				<p>(ii) the embryo used in the procedure was created before the woman's partner died using sperm produced by him.</p> <p>(2) If a woman becomes pregnant:</p> <p>(a) the woman who gave birth is the mother of any child born as a result of the pregnancy; and</p> <p>(b) her partner is taken to be the father of any child born as a result of the pregnancy for the sole purpose of enabling the particulars of the deceased to be entered as the particulars of the child's parent in the Register of births kept under the Births, Deaths and Marriages Registration Act 1996; and</p> <p>(c) if a donor ovum, or an embryo created from a donor ovum, was used in the procedure, the woman who produced the ovum is presumed, for all purposes, not to be a parent of any child born as a result of the pregnancy.</p>
			38	<p>The Act also includes provisions declaring the status of a child if the female partner is deceased.</p> <p>Section 38 states:</p> <p>(1) This section applies if:</p> <p>(a) a woman undergoes a treatment procedure in accordance with Part 5 of the <i>Assisted Reproductive Treatment Act 2008</i> as a result of which she becomes pregnant; and</p>

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				<p>(b) either of the following applies:</p> <p>(i) the ovum used in the procedure:</p> <p>(A) was produced by the woman's partner before her death; or (B) was collected from the woman's partner after her death; or</p> <p>(ii) the embryo used in the procedure was created before the woman's partner died using an ovum produced by her.</p> <p>(2) If a woman becomes pregnant:</p> <p>(a) the woman who gave birth is the mother of any child born as a result of the pregnancy; and</p> <p>(b) the deceased is taken to be a parent of any child born as a result of the pregnancy for the sole purpose of enabling the particulars of the deceased to be entered as the particulars of the child's parent in the Register of births kept under the Births, Deaths and Marriages Registration Act 1996; and</p> <p>(c) the man who produced the semen used in the procedure, or used to create the embryo used in the procedure, is presumed, for all purposes, not to be the father of any child born as a result of the pregnancy, whether or not the man is or was known to the woman or the deceased.</p>
			39	The Act also includes provisions declaring the status of a child if the female partner is deceased (surrogacy

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				<p>arrangements).</p> <p>Section 39 states:</p> <p>(1) This section applies if:</p> <p>(a) a man commissions a surrogacy arrangement in accordance with the <i>Assisted Reproductive Treatment Act 2008</i>; and</p> <p>(b) the surrogate mother undergoes a procedure as a result of which she becomes pregnant; and</p> <p>(c) either of the following applies:</p> <p>(i) the ovum used in the procedure:</p> <p>(A) was produced by the man's partner before her death; or</p> <p>(B) was collected from the man's partner after her death; or</p> <p>(ii) the embryo used in the procedure was created before the man's partner died using an ovum produced by her.</p> <p>(2) If the surrogate mother becomes pregnant, the man may apply to the court under section 20 for a substitute parentage order to be made in respect of the child and in favour of the man and the deceased.</p> <p>(3) In addition to the matters set out in section 22, the court must also be satisfied as to the matters set out in Part 5 of the</p>

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				<p><i>Assisted Reproductive Treatment Act 2008.</i></p> <p>(4) If a substitute parentage order is made, the deceased is taken to be a parent of any child born as a result of the pregnancy for the sole purpose of enabling the particulars of the deceased to be entered as the particulars of the child's parent in the Register of births kept under the Births, Deaths and Marriages Registration Act 1996.</p>
			40	<p>The legal status of a deceased parent is limited under the Act.</p> <p>Section 40 states:</p> <p>1) A deceased person referred to in section 37, 38 or 39:</p> <p>(a) is to be treated in law as a parent of the child for the purpose referred to in that section; but</p> <p>(b) is not to be treated in law as a parent of the child for any other purpose.</p> <p>(2) To avoid doubt, this section does not apply in relation to a will executed by the deceased that expressly refers to a child born as a result of a procedure referred to in section 37, 38 or 39.</p>

4. Queensland

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Adoption Act 2009</p>	<p>Queensland</p>	<p>6(j)</p>	<p>One of the guiding principles of the act is that it may be in a child's best interests for it to retain a relationship with his or her birth family, despite any adoption order.</p> <p>Section 6(j) states:</p> <p>Although a final adoption order changes legal relationships, it may be in an adopted child's best interests for:</p> <p>(i) the child's emotional connections with members of the child's birth family to continue; or</p> <p>(ii) the child to have ongoing contact with members of the child's birth family; or</p> <p>(iii) the child or the child's adoptive parents to exchange information with members of the child's birth family.</p>
			<p>16; 175</p>	<p>The children's parents must consent before the Children's Court may make an adoption order.</p>
			<p>21</p>	<p>There is an obligation to ensure that parents receive and understand information about the adoption.</p> <p>Section 21 states:</p> <p>The chief executive must ensure information is given to each</p>

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				<p>of the child's parents under this division, and counselling of the parent is carried out under this division, in a way that enables the parent to understand.</p> <p>Parents are also to be given consent documents (Section 22), prescribed information (Section 23), pre-consent counselling (Section 24) and access to legal advice (Section 25).</p>
			39	<p>Under Section 39 the Court may dispense with the need for the parents' consent to adoption.</p> <p>Section 39 states:</p> <p>(1) The court may make an order dispensing with the need for the relevant parent's consent to the adoption if:</p> <p>(a) the court is satisfied of a matter stated in section 36(4)(a) to (e); or</p> <p>(b) the Guardianship and Administration Tribunal has made a declaration that the relevant parent does not have capacity to give the consent; or</p> <p>(c) the relevant parent is not an adult and the court is satisfied, on the basis of an assessment mentioned in section 28, that the relevant parent does not have capacity to give the consent; or</p> <p>(d) the relevant parent is not in Queensland and the court is satisfied, on the basis of a declaration or assessment mentioned in section 29(3), that the relevant parent does not</p>

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				<p>have capacity to give the consent; or</p> <p>(e) the court is satisfied the relevant parent:</p> <p>(i) is not, and will not be within a time frame appropriate to the child's age and circumstances, willing and able to protect the child from harm and meet the child's need for long-term stable care; and</p> <p>(ii) is unreasonably:</p> <p>(A) withholding his or her consent to the adoption; or</p> <p>(B) refusing to engage with the chief executive in relation to the issue of whether to give consent to the adoption; or</p> <p>(f) the court is satisfied there are other special circumstances for giving the dispensation.</p> <p>(2) However, if the relevant parent is or is believed to be the child's father, the court may not give the dispensation:</p> <p>(a) within 30 days after notice is given to the relevant parent under section 33; or</p> <p>(b) if the court has reason to believe there is:</p> <p>(i) a current application under the Status of Children Act 1978, section 10, by the relevant parent or someone else, for a declaration of paternity for the child; or</p>

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				<p>(ii) a current application under the Family Law Act 1975 (Cwlth) by the relevant parent for a parenting order for the child.</p> <p>(3) Also, the court must not give the dispensation unless satisfied it would be in the child's best interests for arrangements for the child's adoption to continue to be made.</p> <p>(4) Without limiting subsection (3):</p> <p>(a) if the applicant is a person who has made an application under part 5, the court must be satisfied the grounds for making an adoption order in favour of the applicant are likely to exist; and</p> <p>(b) if the child is in the custody or guardianship of the chief executive (child safety) or someone else under the Child Protection Act 1999, the court must:</p> <p>(i) have regard to anything in a case plan in force for the child under chapter 2, part 3A of that Act about:</p> <p>(A) adoption as a way of meeting the child's need for long-term stable care; or</p> <p>(B) re-uniting the child with the child's family; and</p> <p>(ii) consider whether there is another way of meeting the child's need for long-term stable care that would better promote the child's wellbeing and best interests.</p>

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				(5) If the child has any views about the relevant parent and is able to express the views, having regard to the child's age and ability to understand, the court must consider the views.
			44	<p>A child must be given certain information relating to adoption including information on the parents' role in the process.</p> <p>Section 44 states:</p> <p>(1) The chief executive must ensure the child is given the prescribed information before an application for an adoption order for the child is made.</p> <p>(2) The information must be given in a way and to an extent that is reasonable, having regard to the child's age and ability to understand.</p> <p>(3) In this section:</p> <p>prescribed information means information about the following matters:</p> <p>(a) options other than adoption for the child's long-term care; or</p> <p>(b) possible psychological effects for the child, both short and long-term, of being adopted; or</p> <p>(c) how the child's parents may give the chief executive their preferences relating to the child's adoption including, for</p>

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				<p>example, preferences about:</p> <ul style="list-style-type: none"> (i) the child's religious upbringing; or (ii) the characteristics of the child's adoptive parents and adoptive family; or (iii) the degree of openness in the adoption; (d) the adoption process under this Act, including: <ul style="list-style-type: none"> (i) the consents required for an adoption; and (ii) the process for recruiting, assessing and selecting prospective adoptive parents; and (iii) the chief executive's functions and powers relating to the child's adoption; and (iv) the role of the Children's Court; (e) support that may be available to the child under sections 47, 235 and 236; (f) the legal effect of adoption; (g) the rights and responsibilities of the parties to an adoption, including those relating to: <ul style="list-style-type: none"> (i) adoption plans; and (ii) access to information about, and contact with, other

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				<p>parties to an adoption throughout the life of the adopted person; and</p> <p>(h) the requirement for counselling under section 45 and how it will be arranged; and</p> <p>(i) if the child to be adopted is an Aboriginal person or Torres Strait Islander:</p> <p>(i) options other than adoption for the child's long-term care in accordance with Aboriginal tradition or Island custom; and</p> <p>(ii) the importance of the child being cared for in a way that:</p> <p>(A) helps the child to develop and maintain a connection with the child's Aboriginal tradition or Island custom; and</p> <p>(B) preserves and enhances the child's sense of Aboriginal or Torres Strait Islander identity;</p> <p>(j) the guiding principles that:</p> <p>(i) the child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child's age and ability to understand; and</p> <p>(ii) the child's views must be given consideration, having regard to the child's age or ability to understand.</p>
			45; 47	A child must be given counselling and may be given other

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				support.
			52	<p>No care agreement may be made against the wishes of the parents.</p> <p>Section 52 states:</p> <p>(1) A parent of a child may give the chief executive (child safety) notice that the parent does not wish the child to be placed in care under a care agreement.</p> <p>(2) On receiving a notice under subsection (1):</p> <p>(a) the chief executive (child safety) must not enter a care agreement for the child with another parent of the child; or</p> <p>(b) if a care agreement is in force for the child with another parent of the child, the chief executive (child safety) must end the agreement under section 54.</p>
			60	<p>The chief executive may place a child in its parent's care under Section 60.</p> <p>Section 60 states:</p> <p>(1) This section applies if:</p> <p>(a) the chief executive is the child's guardian under section 57; and</p> <p>(b) it is at least 30 days since, for each of the child's parents,</p>

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				<p>his or her consent was given or the need for his or her consent was dispensed with; and</p> <p>(c) the chief executive is satisfied:</p> <p>(i) one or more of the child's parents are willing and able to protect the child from harm and meet the child's need for long-term stable care; and</p> <p>(ii) it would otherwise be in the child's best interests to be placed in the care of one or more of the parents under this section; and</p> <p>(d) an interim order is not in force for the child.</p> <p>(2) The chief executive may place the child in the care of one or more of the parents by giving each of the child's parents a signed notice.</p> <p>(3) On the placement of the child under subsection (2):</p> <p>(a) the chief executive's guardianship of the child under section 57 ends; and</p> <p>(b) a consent to the child's adoption given by a parent of the child stops having effect.</p>
			157	<p>In making a decision about a child's adoptive parents the chief executive must consider the wishes of the child's parents.</p>

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				<p>Section 157 states:</p> <p>(1) The chief executive must have regard to any preferences of the child's parents including, for example, preferences about:</p> <p>(a) the child's religious upbringing; or</p> <p>(b) the characteristics of the child's adoptive parents and adoptive family; or</p> <p>(c) the degree of openness in the adoption.</p> <p>(2) Subsection (1) does not apply to a preference that the chief executive considers is likely to be contrary to the child's wellbeing or best interests.</p>
			170	<p>The act provides for an adoption plan to be implemented where a child's birth parents have indicated that they wish to be in contact with the child after adoption.</p> <p>Section 170 states:</p> <p>(1) This section applies if a birth parent and a prospective adoptive parent have advised the chief executive that they wish there to be in-person contact, after the adoption, between the child and the child's birth family.</p> <p>(2) An adoption plan must be agreed to, between the birth parent and prospective adoptive parents, that addresses how the contact will happen and the nature and frequency of the</p>

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				contact.
			175	<p>A court must not make an adoption order unless the child's parents have provided their consent.</p> <p>Section 175 states:</p> <p>(1) This section does not apply to a parent if the need for the parent's consent to the child's adoption has been dispensed with under section 39.</p> <p>(2) The court must not make an adoption order unless it is satisfied each parent has given consent to the adoption, under part 2, at least 30 days before the making of the order.</p> <p>(3) A court must not make an adoption order unless the following documents for each parent are produced to the court:</p> <p>(a) a document, sworn by an officer of the department, stating that the officer gave a document containing the prescribed information to the parent under section 23 on a stated day; and</p> <p>(b) a document, sworn by a counsellor, stating that the counsellor counselled the parent under section 24 on a stated day or days; and</p> <p>(c) if the parent is not an adult or section 29(3)(b) applies--a document, sworn by a qualified person, stating that:</p>

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				<p>(i) the qualified person assessed the parent on a stated day or days; and</p> <p>(ii) in the qualified person's opinion, the parent had capacity to give the consent; and</p> <p>(d) if section 29(2) applies to the parent--a declaration by the Guardianship and Administration Tribunal that the parent has capacity to give the consent; and</p> <p>(e) if the chief executive made an application mentioned in section 29(3)(a)--a declaration made on the application that the parent has capacity to give the consent.</p> <p>(4) Subsections (2) and (3) do not apply to the making of a final adoption order if an interim order is in force for the child.</p> <p>(5) Also, subsection (3) does not apply to a parent for whom a complying interstate consent under section 42 is in force.</p> <p>(6) This section does not apply to an intercountry adoption.</p>
			215	<p>A final adoption order may include an order that a child's name be changed but a court must have regard to a child's right to preserve his or her identity.</p> <p>Section 215 states:</p> <p>(1) A final adoption order for a child may include:</p>

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				<p>(a) an order that the child keep the child's existing surname or have the same surname as an adoptive parent; and</p> <p>(b) an order that the child:</p> <p>(i) keep an existing given name; or</p> <p>(ii) have another given name agreed by the child's adoptive parents as well as an existing given name; or</p> <p>(iii) have another given name agreed by the child's adoptive parents instead of an existing given name.</p> <p>(2) The court must make the order that will best promote the child's wellbeing and best interests.</p> <p>(3) The court must have regard to the child's right to preserve his or her identity.</p> <p>(4) The court must consider whether the child is generally known by, or identifies with, any of the child's existing names.</p> <p>(5) The court must not make an order under subsection (1)(b)(iii) unless satisfied it would harm the child's wellbeing or best interests to keep the existing given name.</p> <p>(6) This section does not prevent a change of the child's name under another law after the final adoption order is made.</p>

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			256	<p>An adoptive child may ask the chief executive for pre-adoption information about the adopted child but only with the adoptive parent's consent.</p> <p>Section 256 states:</p> <p>(1) Either of the following persons (the applicant) may ask the chief executive for pre-adoption information about the adopted child:</p> <p>(a) an adoptive parent of the adopted child; and</p> <p>(b) the adopted child, but only with the consent of an adoptive parent.</p> <p>(2) The chief executive may give information in compliance with the request only if written consent is given by each birth parent who is identified by the information.</p> <p>(3) A birth parent is taken to have given consent for subsection (2) if the birth parent has asked for, and received, information about the adopted child under section 257.</p> <p>(4) Subject to subsection (2), the chief executive must comply with the request by giving the applicant any of the following held by the chief executive:</p> <p>(a) the adopted child's name before the adoption; or</p> <p>(b) a prescribed document; or</p>

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				<p>(c) in relation to a birth parent of the adopted child:</p> <p>(i) the birth parent's name at the time of the adoption; or</p> <p>(ii) the birth parent's date of birth; or</p> <p>(iii) the birth parent's last known name and address; or</p> <p>(d) in relation to any other adopted person who is an adult and who has at least 1 birth parent who is also a birth parent of the adopted child:</p> <p>(i) the person's date of birth; or</p> <p>(ii) the person's name immediately after the person's adoption; or</p> <p>(iii) the person's last known name and address, but only with the person's written consent.</p> <p>(5) If a birth parent gives consent, it may relate to all the information under subsection (4) or to all the information other than the birth parent's last known name and address.</p> <p>(6) If a person's consent is required under subsection (2) or (4)(d)(iii) but the person has died, an adult relative of the person may give the consent.</p> <p>(7) If a person's consent is required under subsection (2) or (4)(d)(iii) but the person does not have capacity to consent, a</p>

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				guardian or adult relative of the person may give the consent.
			263	<p>The chief executive must provide information to an adopted person (adult) who applies for access to such information under Section 263 of the Act.</p> <p>Section 263 of the Act states:</p> <p>(1) The adopted person may ask the chief executive for pre-adoption information about the person.</p> <p>(2) The chief executive must comply with the request by giving the person any of the following held by the chief executive:</p> <p>(a) the person's name before the adoption; or</p> <p>(b) a prescribed document; or</p> <p>(c) in relation to a birth parent of the person:</p> <p>(i) the birth parent's name at the time of the adoption; or</p> <p>(ii) the birth parent's date of birth; or</p> <p>(iii) the birth parent's last known name and address, but only with his or her written consent; or</p> <p>(d) in relation to any other adopted person who is an adult and who has at least 1 birth parent who is also a birth parent</p>

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				<p>of the first adopted person:</p> <p>(i) the person's date of birth; or</p> <p>(ii) the person's name immediately after the person's adoption; or</p> <p>(iii) the person's last known name and address, but only with the person's written consent.</p> <p>(3) If a person's consent is required under subsection (2)(c)(iii) or (d)(iii) but the person has died, an adult relative of the person may give the consent.</p> <p>(4) If a person's consent is required under subsection (2)(c)(iii) or (d)(iii) but the person does not have capacity to consent, a guardian or adult relative of the person may give the consent.</p>
			265	<p>The chief executive must provide information to a birth parent who applies for access to such information under Section 265 of the Act.</p> <p>Section 265 states:</p> <p>(1) A birth parent of the adopted person may ask the chief executive for information about the adopted person.</p> <p>(2) The chief executive must comply with the request by giving the birth parent any of the following held by the chief</p>

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				<p>executive:</p> <p>(a) in relation to the adopted person:</p> <p>(i) the person's name immediately after the adoption; or</p> <p>(ii) the person's last known name and address, but only with the person's written consent; or</p> <p>(b) the name, at the time of the adoption, of an adoptive parent of the adopted person; or</p> <p>(c) a prescribed document.</p> <p>(3) If the adopted person has died, an adult relative of the person may give the consent required under subsection (2)(a)(ii).</p> <p>(4) If the adopted person does not have capacity to consent, a guardian or adult relative of the person may give the consent required under subsection (2)(a)(ii).</p>
			275	<p>An adopted person, birth parent, adoptive parent of an adopted person or the chief executive may apply to the Children's Court for an order that certain information must not be given to a stated person. This section of the Act therefore limits sections 263 and 265 (see above).</p> <p>Section 275 states:</p> <p>(1) An application may be made to the Children's Court for</p>

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				<p>an order that the chief executive must not give stated information to a stated person (the relevant person) under division 2 or 3.</p> <p>(2) The application may be made by an adopted person, a birth parent or adoptive parent of an adopted person or the chief executive.</p> <p>(3) As soon as practicable after filing the application in the court, the applicant must serve a copy of it on the relevant person and, if the applicant is not the chief executive, serve a copy on the chief executive.</p> <p>(4) A served copy must state where and when the application is to be heard.</p> <p>(5) The court may dispense with the requirement to serve a copy of the application on the relevant person if the court is satisfied of any of the following matters:</p> <p>(a) the applicant cannot locate the relevant person after making all reasonable enquiries; or</p> <p>(b) there would be an unacceptable risk of harm to the applicant (other than the chief executive) or someone else if the relevant person were made aware of the application; or</p> <p>(c) there are other special circumstances for giving the dispensation.</p> <p>(6) The court may make the order if satisfied there would be</p>

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				<p>an unacceptable risk of harm to the applicant (other than the chief executive) or someone else if the information were given.</p> <p>(7) The application may be made and dealt with during proceedings for an adoption order or after an adoption order is made.</p> <p>(8) While the application is pending, the chief executive may withhold the information from release under division 2 or 3.</p>
			295	<p>A simple adoption does not end the parent child relationship.</p> <p>Section 295 states:</p> <p>Despite section 292(2), a simple adoption does not end the legal relationship between the adopted child and the individuals who were, immediately before the adoption, the child's parents.</p>
	Anti-Discrimination Act 1991	Queensland	6	<p>One of the purposes of the Act is to promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity, including work, education and accommodation.</p>
			7	<p>Section 7 of the Act makes it clear that the act prohibits discrimination on the grounds of, inter alia:</p> <p>(c) pregnancy;</p>

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				(d) parental status; (e) breastfeeding; (o) family responsibilities; and (p) association with, or relation to, a person identified on the basis of any of the above attributes.
			Division 2	Discrimination is prohibited in work or a work related area.
			Division 3	Discrimination is prohibited in an education area.
			Division 4	Discrimination is prohibited in a goods and service area.
			Division 5	Discrimination is prohibited in a superannuation area.
			Division 6	Discrimination is prohibited in an insurance area.
			Division 7	Discrimination is prohibited in a disposition of land area.
			Division 8	Discrimination is prohibited in an accommodation area.
			Division 9	Discrimination is prohibited in a club membership and affairs area.
			Division 10	Discrimination is prohibited in the administration of state laws and programs area.
			Division 11	Discrimination is prohibited in a local government area.

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	<p>Births, Deaths and Marriages Registration Act 2003</p>		5	<p>Notification of birth must be given within 2 working days of a child's birth.</p> <p>Section 5 states:</p> <p>(1) For each child born in Queensland, the responsible person must give a notice, in the approved form, to the registrar.</p> <p>Maximum penalty—20 penalty units.</p> <p>(2) The responsible person is:</p> <p>(a) if the child was born in a hospital, or brought to a hospital within 24 hours after birth—the person in charge of the hospital; or</p> <p>(b) otherwise:</p> <p>(i) a doctor present at the birth; or</p> <p>(ii) if a doctor was not present at the birth—a midwife present at the birth; or</p> <p>(iii) if neither a doctor nor a midwife were present at the birth—a person, other than the mother, present at the birth; or</p> <p>(iv) if the mother was alone at the birth—the mother; or</p> <p>(v) if the mother dies or abandons the child—the person who takes physical custody of the child, for example, a person who discovers the child with the body of the mother.</p>

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				<p>(3) The notice must be given within 2 working days after the birth.</p> <p>(4) A person need not comply with subsection (1) if someone else has complied with subsection (1).</p>
			6	<p>Births must be registered if a child is born in Queensland or in other circumstances prescribed by Section 6 of the Act.</p> <p>Section 6 states:</p> <p>(1) The birth of a child must be registered if:</p> <p>(a) the child is born in Queensland; or</p> <p>(b) a Queensland court:</p> <p>(i) finds that the child was born in Queensland; and</p> <p>(ii) makes an order that:</p> <p>(A) directs that the birth be registered; and</p> <p>(B) states the particulars about the birth that are prescribed under a regulation.</p> <p>(2) In this section:</p> <p>child includes a stillborn child born after 30 April 1989.</p>
			7	The birth of a child may be registered in Queensland in

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				<p>prescribed circumstances under Section 7 of the Act.</p> <p>Section 7 states:</p> <p>(1) The birth of a child may be registered under this Act if:</p> <p>(a) the child is born in an aircraft or vessel outside Queensland; and</p> <p>(b) the child is not, between the time when the child is born and when the child arrives in Queensland, taken to a place outside Queensland.</p> <p><i>Example of paragraph (b)—</i></p> <p><i>A woman gives birth on a ship travelling non-stop from Sydney to Tokyo. The mother and child are flown by helicopter from the ship to Brisbane to enable them to receive medical care. The birth may be registered in Queensland.</i></p> <p>(2) The birth of a child outside Australia may be registered under this Act if:</p> <p>(a) the child's parents intend to live in Queensland; and</p> <p>(b) when the application for registration is made, the child is:</p> <p>(i) resident in Queensland; and</p> <p>(ii) not older than 18 months.</p> <p>(3) The birth of a child may be registered under this Act if a</p>

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				<p>non-Queensland court:</p> <p>(a) finds that the child was born in Queensland; and</p> <p>(b) makes an order that:</p> <p>(i) directs that the birth be registered; and</p> <p>(ii) states the particulars about the birth that are prescribed under a regulation.</p> <p>(4) The birth of a stillborn child born in Queensland before 1 May 1989 may be registered under this Act if, at the same time, the registrar is able to register the death of the child.</p> <p>(5) The registrar must not register under this section a birth that has been registered in another State or country.</p> <p>(6) In this section:</p> <p>place does not include an aircraft or vessel.</p>
			8	<p>The parents of a child must register the birth.</p> <p>Section 8 states:</p> <p>1) If the birth of a child must be registered in Queensland, the following persons must apply to register the birth:</p> <p>(a) both parents of the child; or</p> <p>(b) if the child was found abandoned as a newborn—the</p>

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				<p>person taking care of the child.</p> <p>Maximum penalty—20 penalty units.</p> <p>(2) However, the registrar may accept an application completed by only 1 of the parents if the registrar is satisfied:</p> <p>(a) the applicant is unable or unwilling to give information as to the other parent's identity or whereabouts; or</p> <p><i>Examples—</i></p> <p><i>1 The applicant does not know the father's identity.</i></p> <p><i>2 The applicant does not know the other parent's whereabouts.</i></p> <p>(b) the other parent is unable, unlikely or unwilling to sign the application; or</p> <p><i>Examples—</i></p> <p><i>1 The other parent is dead.</i></p> <p><i>2 The other parent cannot be located.</i></p> <p>(c) the requirement under subsection (1)(a) for the other parent to apply to register the birth would cause the applicant unnecessary distress.</p> <p><i>Examples—</i></p>

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				<p><i>1 The applicant is too frightened to contact the other parent because of a domestic violence situation.</i></p> <p><i>2 Contact between the applicant and the other parent would breach a domestic violence order.</i></p> <p>(2A) If the registrar accepts an application under subsection (2)(a) or (b) and has an address for the other parent, the registrar must, before registering the birth:</p> <p>(a) give the other parent:</p> <p>(i) written notice of the application; and</p> <p>(ii) at least 14 days written notice of the registrar's intention to register the birth; and</p> <p>(b) ask the other parent to sign an application.</p> <p>(2B) A failure of the registrar to comply with subsection (2A), or a failure of the parent of a child to sign an application as requested under subsection (2A)(b), does not prevent the registration of the child's birth or affect the validity of the registration.</p> <p>(3) Also, the registrar may accept an application from a person who is not responsible for having the child's birth registered if the registrar is satisfied:</p> <p>(a) the child's parents are unable, or unlikely, to apply to</p>

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				<p>register the birth; and</p> <p>(b) the person knows the relevant facts.</p> <p>(4) If the registrar does not receive an application under subsection (1), (2) or (3) for a birth, the registrar may require 1 of the following persons to apply to register the birth:</p> <p>(a) the person in charge of the place where the child was born; or</p> <p>(b) a person present at the birth; or</p> <p>(c) a person whom the registrar reasonably believes knows the relevant facts.</p> <p>(5) A person must comply with the registrar's requirement, unless the person has a reasonable excuse.</p> <p>Maximum penalty—20 penalty units.</p>
			10; 10A	<p>The Act includes specific provisions to ensure only the true parents of a child are so registered.</p> <p>Section 10 states:</p> <p>(1) This section applies if a person applies:</p> <p>(a) to register the birth of a child; or</p> <p>(b) to include information about the identity of a child's</p>

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				<p>parent in the register of births after the child's birth has been registered.</p> <p>(2) The registrar must not include information in the register of births that identifies a person as the parent of a child unless:</p> <p>(a) both:</p> <p>(i) the person signed a birth registration application; and</p> <p>(ii) the registrar is satisfied that the person is a parent of the child; or</p> <p>(b) the registrar is entitled under the Status of Children Act 1978, section 26 to presume that the person is a parent of the child.</p> <p>(3) However, the registrar may include information about the identity of a parent who did not sign the birth registration application if:</p> <p>(a) the registrar is satisfied that the parent did not sign because:</p> <p>(i) the parent is dead; or</p> <p>(ii) the parent's whereabouts are unknown; or</p> <p>(iii) the parent is unable to sign the application; or</p>

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				<p>(iv) the parent is, for another justifiable reason, unable to apply; or</p> <p>(b) the registrar is satisfied that the other parent does not dispute the correctness of the information; or</p> <p>(c) the registrar is entitled under a law, including a law of another State or the Commonwealth, to make a presumption as to the identity of the child's parent.</p> <p>(4) In circumstances prescribed under a regulation, the registrar may require a person who claims that someone is a parent of a child to prove it by giving the registrar a copy of a court finding mentioned in the Status of Children Act 1978, section 26.</p> <p>Section 10A limits the number of people who may be registered as parents:</p> <p>(1) In relation to the registration of a relevant event for a child:</p> <p>(a) the child's parent, or 1 of the child's parents, must be registered as the child's mother or as the child's father; and</p> <p>(b) not more than 1 person may be registered as the child's mother or as the child's father; and</p> <p>(c) not more than 2 people in total may be registered as the child's parents (however described).</p>

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				<p>(2) In this section: relevant event, for a child, means:</p> <p>(a) the child's birth; or</p> <p>(b) the child's adoption; or</p> <p>(c) the child's change of parentage under a parentage order or discharge order.</p>
			12	<p>A birth registration must state a child's name.</p> <p>Section 12 states:</p> <p>(1) A birth registration application, other than an application to register the birth of a stillborn child, must state the child's name.</p> <p>(2) If a birth registration application states only 1 name for the child, the name is taken, for this Act, to be the child's surname.</p> <p>(3) If:</p> <p>(a) the name stated in the birth registration application is a prohibited name; or</p> <p>(b) for a birth registration application that is made by both parents—the registrar is satisfied that the parents cannot</p>

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				<p>agree on the child's name; or</p> <p>(c) no name is stated in the birth registration application;</p> <p>the registrar may choose a name for the child and enter it in the register.</p> <p>(4) However, the registrar cannot choose a first name for a stillborn child if the applicants have indicated that they do not wish to name the child.</p> <p>(5) One of the ways in which the applicants may indicate that they do not wish to name the child is by not putting a name for the child in the birth registration application.</p> <p>(5A) Before entering a name in the register for a child under subsection (3), the registrar must give the applicant at least 14 days written notice of the registrar's intention to do so.</p> <p>(6) If a child's parents cannot agree on a name for the child, either parent may apply to a Magistrates Court to decide the child's name.</p> <p>(7) The Magistrates Court may:</p> <p>(a) choose a name, other than a prohibited name, for the child; and</p> <p>(b) order that the name be entered in the register of births for the child.</p>

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			6	<p>A grandparent may be a carer for the purposes of the Act where the grandparent is the primary care giver and decision maker for the child.</p> <p>Section 6 states:</p> <p>(1) A carer is an individual who provides, in a non-contractual and unpaid capacity, ongoing care or assistance to another person who, because of disability, frailty, chronic illness or pain, requires assistance with everyday tasks.</p> <p>(2) Also, a grandparent is a carer of his or her grandchild if:</p> <p>(a) the child lives with the grandparent; and</p> <p>(b) the grandparent is the primary care-giver and decision-maker for the child.</p> <p>(3) However, if a child's parent or parents remain the primary care-givers and decision-makers for the child, the child's grandparent is not the child's carer only because:</p> <p>(a) the grandparent cares for the child while the child's parent or parents are working; or</p> <p>(b) the child, together with the child's parent or parents, lives with the grandparent.</p> <p>(4) For the purpose of this Act, a person is not a carer:</p> <p>(a) only because the person is the spouse, parent or guardian</p>

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				<p>of a person to whom care is provided; or</p> <p>(b) if the person provides the care or assistance as a volunteer for a voluntary organisation.</p>
			Schedule	The Queensland carers charter is established and included in the Schedule to the Act.
	Child Care Act 2002	Queensland	9	<p>The guiding principles are set out in Section 9 of the Act:</p> <p>(a) the best interests of a child are the paramount concern;</p> <p>(b) child care should be provided to a child in a way that:</p> <p>(i) protects the child from harm; and</p> <p>(ii) respects the child's dignity and privacy; and</p> <p>(iii) promotes the child's wellbeing; and</p> <p>(iv) provides positive experiences to the child; and</p> <p>(c) licensed child care should be provided to a child in a way that stimulates and develops the child's creative, emotional, intellectual, lingual, physical, recreational and social potential; and</p> <p>(d) parents have the primary responsibility for the upbringing, protection and development of their children, and should be supported in that role; and</p>

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				<p>(e) child care should be planned and provided in a way that:</p> <p>(i) involves parents and other members of the community; and</p> <p>(ii) reflects the multicultural and multilingual nature of the community.</p>
			78	<p>Parents or guardians must be allowed access to observe the provision of child care.</p> <p>Section 78 states:</p> <p>(1) Whenever child care is being provided to a child in the course of a licensed service, the licensee must ensure the child's parents or guardians are allowed access to observe the provision of the child care.</p> <p>Maximum penalty—40 penalty units.</p> <p>(2) Subsection (1) does not apply to the extent that compliance would allow access in contravention of an order of a court or tribunal.</p>
	Child Protection Act 1999	Queensland	10	<p>A child is in need of protection under the Act in certain circumstances including when they do not have a parent able and willing to protect the child from harm.</p> <p>Section 10 states:</p>

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				<p>A child in need of protection is a child who:</p> <p>(a) has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm; and</p> <p>(b) does not have a parent able and willing to protect the child from the harm.</p>
			<p>Part 3, Section 38</p>	<p>Court assessment orders can be made under Part 3, Section 38 of the Act to assess whether a child is in need of protection.</p> <p>Section 38 states:</p> <p>(1) This part provides for the making of court assessment orders.</p> <p>(2) A court assessment order is made to authorise actions necessary as part of an investigation to assess whether a child is a child in need of protection if:</p> <p>(a) the consent of a parent of the child to the actions has not been able to be obtained or it is not practicable to take steps to obtain the parent's consent; and</p> <p>(b) more than 3 business days is necessary to complete the investigation and assessment.</p>
			<p>Part 3AA, Section</p>	<p>Temporary custody orders can be made under Part 3AA of the Act.</p>

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			51AB	<p>Section 51AB of the Act states:</p> <p>(1) This part provides for the making of temporary custody orders.</p> <p>(2) The purpose of a temporary custody order is to authorise the action necessary to ensure the immediate safety of a child while the chief executive decides the most appropriate action to meet the child's ongoing protection and care needs (for example, applying for a child protection order).</p>
			Part 3A; 51A	<p>Parent has a specific definition which applies to Part 3A of the Act:</p> <p>In this part:</p> <p>parent, of a child, means each of the following persons:</p> <p>(a) the child's mother or father;</p> <p>(b) a person in whose favour a residence order or contact order for the child is in operation under the Family Law Act 1975 (Cwlth);</p> <p>(c) a person, other than the chief executive, having custody or guardianship of the child under:</p> <p>(i) a law of the State, other than this Act; or</p> <p>(ii) a law of another State;</p>

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				(d) a long-term guardian of the child.
			51H	<p>Family group meetings must take place to develop a case plan for a child.</p> <p>Section 51H states:</p> <p>(1) The chief executive must convene a family group meeting, or have a private convenor convene a family group meeting, to develop a case plan for a child.</p> <p>(2) A family group meeting convened to develop a case plan is a case planning meeting.</p> <p>(3) The chief executive may also convene a family group meeting or have a private convenor convene a family group meeting:</p> <p>(a) to review a case plan under division 5 and prepare a revised case plan; or</p> <p>(b) to consider, make recommendations about, or otherwise deal with, another matter relating to the child's wellbeing and protection and care needs.</p> <p>(4) Also, under section 68, the Children's Court may order that a family group meeting be convened.</p>
			51L	A child and the child's parents must be given the opportunity to attend the family group meeting.

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				<p>Section 51L states:</p> <p>(1) The convenor must give the following persons a reasonable opportunity to attend and participate in the meeting:</p> <p>(a) the child, unless it would be inappropriate because of the child's age or ability to understand; or</p> <p>(b) the child's parents; or</p> <p>(c) other members of the child's family group who the convenor considers likely to make a useful contribution to the plan's development at the meeting; or</p> <p>(d) other persons with whom the child has a significant relationship;</p> <p><i>Example—</i></p> <p><i>An approved carer may be someone with whom the child has a significant relationship.</i></p> <p>(e) any legal representative of the child; or</p> <p>(f) if the child is an Aboriginal or Torres Strait Islander child—a recognised entity, or member of a recognised entity, for the child; or</p> <p>(g) anyone else who the convenor considers likely to make a useful contribution to the plan's development at the meeting;</p>

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				<p>or</p> <p>(h) if the convenor is a private convenor—the chief executive.</p> <p>(2) The convenor must also allow the child or a parent of the child to have someone attend and participate in the meeting to give help or support to the child or parent.</p> <p><i>Examples:</i></p> <p><i>a youth worker</i></p> <p><i>an Aboriginal or Torres Strait Islander elder</i></p> <p><i>a representative within the child's cultural community</i></p> <p><i>a legal representative</i></p> <p>(3) To remove any doubt, it is declared that a requirement to allow a person to attend or participate in the meeting under subsection (1) or (2) applies whether or not the child's parents agree to the person's attendance or participation.</p> <p>(4) The convenor is not required to allow a particular person to attend or participate in the meeting under subsection (1)(b) to (d) or (2) if the convenor is satisfied that person's attendance or participation would be contrary to the purposes of the meeting or not in the child's best interests.</p>

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			Part 3B	<p>If there is no assessment order or child protection order in place and the chief executive is satisfied that the child is in need of protection, part 3B applies.</p> <p>The child and the parents of the child are to be involved in any intervention on behalf of the child (in need of protection).</p> <p>Section 51ZC states:</p> <p>If the chief executive decides to intervene with the parents' agreement, the chief executive must:</p> <p>(a) encourage and facilitate the participation of the child and child's parents in:</p> <p>(i) decisions about the most appropriate intervention for the child; and</p> <p>(ii) the carrying out of the intervention; and</p> <p>(b) encourage and facilitate the parents' continuing involvement, during the intervention, with the child's life and care.</p>
			51ZE	<p>The chief executive can enter into a care agreement for a child if he is satisfied of certain conditions.</p> <p>Section 51ZE states:</p> <p>(1) The chief executive may enter a care agreement for the</p>

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				<p>child if satisfied:</p> <p>(a) it would be in the child's best interests to be temporarily placed in the care of someone other than the child's parents; and</p> <p>(b) it is not likely that, if the parents end the agreement, the child will be at immediate risk of harm.</p> <p>(2) The chief executive must obtain and have regard to the child's views before entering the care agreement, unless the child is unable to form and express views, taking into account the child's age and ability to understand.</p> <p>(3) The child may also be a party to the care agreement.</p> <p>(4) Despite section 51ZD(1), the chief executive may enter an assessment care agreement with only 1 of the child's parents if:</p> <p>(a) it is impractical to obtain the consent of the other parent to the agreement before entering the agreement; or</p> <p>(b) the chief executive has made a reasonable attempt to obtain the consent of the other parent before entering the agreement.</p> <p>(5) If the chief executive has not obtained the consent of the other parent before entering an assessment care agreement under subsection (4), the chief executive must make a reasonable attempt to give a copy of the agreement to the</p>

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				<p>other parent, and obtain the other parent's consent, after the agreement has been entered into.</p> <p><i>Note:</i></p> <p><i>See section 51ZI(2) for how the other parent may end the agreement.</i></p> <p>(6) The chief executive may not enter an assessment care agreement with only 1 of the child's parents if another parent refuses to enter the agreement.</p>
			51ZG	While a child protection agreement is in force the chief executive has custody of the child.
			Part 4, Section 53	<p>Child protection orders may be made under Part 4 of the Act. The purpose of these orders is explained in Section 53.</p> <p>Section 53 states:</p> <p>(1) This part provides for the making of child protection orders.</p> <p>(2) A child protection order is made to ensure the protection of a child the Children's Court decides is a child in need of protection.</p>
			59	The circumstances in which a Court may make a child protection order are set out in Section 59 of the Act.

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				<p>Section 59 states:</p> <p>(1) The Children's Court may make a child protection order only if it is satisfied:</p> <p>(a) the child is a child in need of protection and the order is appropriate and desirable for the child's protection; and</p> <p>(b) there is a case plan for the child:</p> <p>(i) that has been developed or revised under part 3A; and</p> <p>(ii) that is appropriate for meeting the child's assessed protection and care needs; and</p> <p>(c) if the making of the order has been contested, a conference between the parties has been held or reasonable attempts to hold a conference have been made; and</p> <p>(d) the child's wishes or views, if able to be ascertained, have been made known to the court; and</p> <p>(e) the protection sought to be achieved by the order is unlikely to be achieved by an order under this part on less intrusive terms.</p> <p>(2) Before making a child protection order, the court may have regard to any contravention of this Act or of an order made under this Act.</p> <p>(3) When deciding whether a case plan is appropriate under</p>

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				<p>subsection (1)(b)(ii), it is not relevant whether or not all persons who participated in the development or revision of the plan agreed with the plan.</p> <p>(4) The court must not make a child protection order unless a copy of the child's case plan and, if it is a revised case plan, a copy of the report about the last revision under section 51X have been filed in the court.</p> <p>(5) Also, before making a child protection order granting custody or guardianship of a child to a person other than the chief executive, the court must have regard to any report given, or recommendation made, to the court by the chief executive about the person, including a report about the person's criminal history, domestic violence history and traffic history.</p> <p><i>Editor's note—</i></p> <p><i>Section 95 deals with reports about the person's criminal history, domestic violence history and traffic history.</i></p> <p>(6) In addition, before making a child protection order granting long-term guardianship of a child, the court must be satisfied:</p> <p>(a) there is no parent able and willing to protect the child within the foreseeable future; or</p> <p>(b) the child's need for emotional security will be best met in</p>

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				<p>the long term by making the order.</p> <p>(7) Further, the court must not grant long-term guardianship of a child to:</p> <p>(a) a person who is not a member of the child's family unless the child is already in custody or guardianship under a child protection order; or</p> <p>(b) the chief executive if the court can properly grant guardianship to another suitable person.</p> <p>(8) Before the court extends or makes a further child protection order granting custody or short-term guardianship of the child, the court must have regard to the child's need for emotional security and stability.</p> <p>(9) This section does not apply to the making of an interim order under section 67.</p>
			65	<p>A child or the child's parents may apply to the court to vary or revoke a child protection order.</p> <p>Section 65 states:</p> <p>(1) An authorised officer, a child's parent or the child may apply to the Children's Court for an order to:</p> <p>(a) vary or revoke a child protection order for the child; or</p> <p>(b) revoke a child protection order for the child and make</p>

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				<p>another child protection order in its place.</p> <p>(2) However, a child's parent cannot:</p> <p>(a) apply for an order to revoke a child protection order for the child and make another child protection order in its place that grants guardianship of the child; or</p> <p>(b) without the leave of the court, apply for an order to vary or revoke a child protection order for the child if another application for an order by a parent of the child to vary or revoke the child protection order has been decided by the court.</p> <p>(3) For subsection (2)(b), the court may grant leave only if it is satisfied the child's parent has new evidence to give to the court.</p> <p>(4) This part applies, with the changes prescribed in subsection (5) and all other necessary changes, to the application as if it were an application for a child protection order for the child.</p> <p>(5) If the application is made by the child or a parent of the child:</p> <p>(a) other parents of the child and the chief executive become respondents to the application; and</p> <p>(b) immediately after the application is made, the registrar must give written notice to the chief executive of the time and</p>

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				<p>place for hearing the application; and</p> <p>(c) as soon as practicable after receiving the registrar's notice, the chief executive must comply with section 56 except so far as it relates to the applicant.</p> <p>(6) The court may, under subsection (1)(a), revoke a child protection order for a child only if it is satisfied the order is no longer appropriate and desirable for the child's protection.</p> <p>(7) Without limiting the things to which the court may have regard in deciding an application under this section, the court:</p> <p>(a) may have regard to a contravention of the child protection order or this Act; and</p> <p>(b) for an application to revoke a child protection order granting long-term guardianship of a child under section 61(f)(i) or (ii)—must have regard to the child's need for emotional security and stability.</p> <p>(8) In this section:</p> <p>child protection order does not include an interim order under section 67.</p>
			80	<p>A person with custody or guardianship of a child under a child protection order has obligations to the child's parents, although these may be limited by Court order where there would be a significant risk to the safety of the child.</p>

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				<p>Section 80 states:</p> <p>(1) If, under a child protection order for a child, a member of the child's family or another suitable person is granted custody or guardianship of the child, the family member or person must:</p> <p>(a) tell the parents where the child is living; and</p> <p>(b) give them information about the child's care; and</p> <p>(c) provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances.</p> <p>(2) However, if the Children's Court is satisfied compliance with the requirements of subsection (1) would constitute a significant risk to the safety of the child or anyone else with whom the child is living, the court may order that all or part of the requirements do not apply, or apply with stated modifications or apply to a stated extent.</p>
			Part 6; Division 4	<p>The chief executive may place a child in care under Part 6, Division 4 of the Act.</p> <p>Section 82 states:</p> <p>(1) The chief executive may place the child in the care of:</p> <p>(a) an approved kinship carer for the child; or</p>

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				<p>(b) an approved foster carer; or</p> <p>(c) an entity conducting a departmental care service; or</p> <p>(d) a licensee; or</p> <p>(e) if it is not possible, or not in the child's best interests, for the child to be placed in the care of an entity mentioned in paragraphs (a) to (d)—a provisionally approved carer for the child; or</p> <p>(f) if the chief executive is satisfied another entity would be the most appropriate for meeting the child's particular protection and care needs—that entity.</p> <p><i>Example for paragraph (f)—</i></p> <p><i>A particular medical or residential facility may be the most appropriate entity for a child with a disability.</i></p> <p>(2) Also, if the child is in the chief executive's custody or guardianship under a child protection order, the chief executive may place the child in the care of a parent of the child.</p>
			87	<p>The chief executive is obliged to provide opportunity for contact between the child and the child's parents under Section 87 of the Act.</p> <p>Section 87 states:</p>

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				<p>(1) The chief executive must provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances.</p> <p>(2) However, the chief executive may refuse to allow, or restrict or impose conditions on, contact between the child and the child's parents or members of the child's family, if the chief executive is satisfied it is in the child's best interests to do so or it is not reasonably practicable in the circumstances for the parents or family member to have the contact.</p> <p>(3) If the chief executive refuses to allow, or restricts or imposes conditions on contact between the child and a person, the chief executive must give written notice of the decision to each person affected by the decision.</p> <p>(4) The notice mentioned in subsection (3) must comply with the QCAT Act, section 157(2).</p>
	<p>Commission for Children and Young People and Child Guardian Act 2000</p>		6	<p>One of the principles of the Act is that a family has the primary responsibility for the upbringing and development of its children, and should be supported in that role.</p> <p>Section 6 states:</p> <p>(1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.</p> <p>(2) Subject to subsection (1), this Act is also to be</p>

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				<p>administered under the following principles:</p> <p>(a) every child is a valued member of society; and</p> <p>(b) in decisions involving a child, the child's views and wishes should be taken into account in a way that has regard to the child's age and ability to understand; and</p> <p>(c) every child is entitled:</p> <p>(i) to be treated in a way that respects the child's dignity and privacy; and</p> <p>(ii) to be cared for in a way that protects the child from harm and promotes the child's wellbeing; and</p> <p>(iii) to express the child's concerns and grievances and to have them dealt with in a way that is fair and timely and promotes the child's participation; and</p> <p>(iv) to receive information and help to enable the child to exercise the child's entitlements; and</p> <p>(v) to have access to services necessary to meet the child's needs; and</p> <p>(d) the family has the primary responsibility for the upbringing and development of its children, and should be supported in that role.</p>

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	Corrective Services Act 2006	Queensland	29	<p>A female prisoner may apply to the chief executive to have her child accommodated with her under Section 29 of the Act.</p> <p>Section 29 states:</p> <p>1) This section applies if a female prisoner:</p> <p>(a) gives birth to a child during her period of imprisonment; or</p> <p>(b) has custody of a child:</p> <p>(i) of whom the prisoner is the mother; or</p> <p>(ii) the subject of a court order requiring the child to live with the prisoner, whether or not the prisoner is the child's mother.</p> <p>(2) On admission to the corrective services facility, the prisoner must be informed that:</p> <p>(a) the prisoner, or the child protection chief executive, may apply to the chief executive to have the child accommodated with the prisoner; and</p> <p>(b) if the prisoner, or the child protection chief executive, applies and the application is successful, the prisoner will have primary responsibility for the child's care and safety, including all costs associated with the care.</p> <p>(3) The following persons may apply, in the approved form,</p>

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				<p>to the chief executive to have the child accommodated with the prisoner in the corrective services facility:</p> <p>(a) the prisoner; or</p> <p>(b) the child protection chief executive.</p> <p>(4) In this section:</p> <p>costs associated, with the care of a child, includes the cost of nappies and baby goods for the child, but does not include the cost of food and drink for the child.</p>
	Maintenance Act 1965	Queensland	8	<p>The Act gives the power to magistrates to make, discharge, suspend or vary maintenance orders.</p> <p>Section 8 states:</p> <p>(1) Subject to this Act, a court shall have jurisdiction to make and to discharge, suspend, or vary any of the following kinds of orders:</p> <p>(a) an order against a husband for the maintenance of his wife; or</p> <p>(b) an order against a father for the maintenance of children of the family; or</p> <p>(c) an order against a wife for the maintenance of her husband; or</p>

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				<p>(d) an order against a mother for the maintenance of children of the family; or</p> <p>(e) an order against an unmarried father for the maintenance of his child; or</p> <p>(f) an order against an unmarried mother for the maintenance of her child; or</p> <p>(g) an order against an unmarried father for preliminary expenses in respect of the birth of his child; or</p> <p>(h) an order against an unmarried father for funeral expenses in respect of the death of his child, or of the mother of such a child; or</p> <p>(i) an order against a husband, wife, father, or mother for or towards the cost of medical, surgical, psychiatric, dental, hospital, or nursing care or treatment of a wife, husband, or child, or of funeral expenses in relation to any such person; or</p> <p>(j) such nominal, preliminary and interim orders as are provided for by this part.</p>
			9	<p>Section 9 lists the factors that will determine the amount to be paid under maintenance orders.</p> <p>Section 9 states:</p> <p>(1) In determining the amount that a defendant is to be ordered to pay by an order under section 10, 11, 12, 14, 15 or</p>

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				<p>17, the court shall have regard, where appropriate, to:</p> <p>(a) the accustomed condition in life of the person for whose benefit the order is to be made; and</p> <p>(b) any evidence before the court as to the means and earning capacity of the defendant and that person and the ability of the defendant to pay maintenance;</p> <p>but may, in its discretion, disregard:</p> <p>(c) the earnings or savings from earnings from an occupation engaged in by that person, or any part of those earnings or savings, if it is satisfied that that person engaged in that occupation solely or mainly because that person was, or reasonably expected to be, left without adequate means of support; and</p> <p>(d) the earning capacity of that person, if it is satisfied that that person would engage in an occupation solely or mainly because that person is, or reasonably expects to be, left without adequate means of support.</p> <p>(2) In the case of an order for the benefit of a child of the family or a child whose parents were not married to each other at the time of its conception and have not since married each other, the expressions:</p> <p>(a) 'defendant', in subsection (1)(b); and</p>

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				<p>(b) 'that person', in subsection (1)(c) and (d);</p> <p>include the parent of the child, not being the parent who is the defendant.</p> <p>(3) In determining the amount that a defendant is to be ordered to pay by an order under this part for a child in custody, no regard shall be had to the fact that the child is a child in custody.</p> <p>(4) In this section:</p> <p>chief executive for child protection means the chief executive of the department in which the <i>Child Protection Act 1999</i> is administered.</p> <p>child in custody means a child in the custody or under the guardianship of the chief executive for child protection under a court assessment order or child protection order under the <i>Child Protection Act 1999</i>.</p>
			11	<p>A Court may order a father to pay maintenance for his child under the circumstances set out in Section 10.</p> <p>Section 11 states:</p> <p>Where the court, upon complaint made on behalf of a child of the family, is satisfied:</p> <p>(a) that the child is left by the father without adequate means of support provided by him and was so left on the date</p>

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				<p>alleged in the complaint; or</p> <p>(b) that the father is about to remove out of Queensland or into a distant part of Queensland and leave the child without adequate means of support provided by him; or</p> <p>the court may order the father to pay for or towards the maintenance of the child such amount as it thinks reasonable.</p>
			12	<p>The Court may also order a mother to pay maintenance for her child under Section 12:</p> <p>Where the court, upon complaint made on behalf of a child of the family, is satisfied:</p> <p>(a) that the child is left by the mother without adequate means of support provided by her and was so left on the date alleged in the complaint; or</p> <p>(b) that the mother is about to remove out of Queensland or into a distant part of Queensland and leave the child without adequate means of support provided by her; or</p> <p>the court may order the mother to pay for or towards the maintenance of the child such amount as it thinks reasonable.</p>
			14	<p>The Court may also order an unmarried father to pay maintenance for his child under Section 14.</p> <p>Section 14 states:</p>

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				<p>Where the court, upon complaint made on behalf of a child whose parents were not married to each other at the time of its conception and have not since married each other, is satisfied that the defendant is the father of the child and:</p> <p>(a) that the child is left by the defendant without adequate means of support provided by him and was so left on the date alleged in the complaint; or</p> <p>(b) that the defendant is about to remove out of Queensland or into a distant part of Queensland and leave the child without adequate means of support provided by the defendant; or</p> <p>the court may order the defendant to pay for or towards the maintenance of the child such amount as it thinks reasonable.</p>
			15	<p>The Court may also order an unmarried mother to pay maintenance for her child under Section 14.</p> <p>Section 15 states:</p> <p>Where the court, upon complaint made on behalf of a child whose parents were not married to each other at the time of its conception and have not since married each other is satisfied:</p> <p>(a) that the child is left by the mother without adequate means of support provided by her and was so left on the date alleged in the complaint; or</p>

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				<p>(b) that the mother is about to remove out of Queensland or into a distant part of Queensland and leave the child without adequate means of support provided by the mother; or</p> <p>the court may order the mother to pay for or towards the maintenance of the child such amount as it thinks reasonable.</p>
			16	<p>The Court may order (before a child is born) payment of preliminary expenses under Section 16:</p> <p>(1) Where the court, upon complaint made by or on behalf of a woman, is satisfied:</p> <p>(a) that she is pregnant by the defendant (not being her husband) or has been delivered of a child or a stillborn child of whom the defendant (not being her husband) is the father; and</p> <p>(b) that the defendant has not made adequate provision for the payment of her preliminary expenses; or</p> <p>the court may order the defendant to pay for preliminary expenses such amount as it thinks reasonable.</p> <p>(1A) Where a woman might, but for her death, have made a complaint under subsection (1), the complaint may be made by any person who has paid or is liable to pay the preliminary expenses.</p> <p>(2) A complaint referred to in subsection (1) or (1A) or a claim referred to in subsection (8) shall not be made after the</p>

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				<p>expiration of 12 months after the birth or stillbirth of the child.</p> <p>(3) An order shall not be made under subsection (1) where the woman for whose benefit the order is sought is pregnant unless the court is satisfied by the evidence or a certificate of a medical practitioner that the woman is quick with child.</p> <p>(4) Where an order under subsection (1) was made in the case of a woman who was pregnant by the defendant and:</p> <p>(a) the woman is not delivered of a child or a stillborn child before a date specified in the order for the purposes of this subsection, being a date not later than 6 months after the order was made; or</p> <p>(b) the woman is delivered of a stillborn child before the date so specified; or</p> <p>the order ceases to have effect on the date so specified or on the delivery of the stillborn child, as the case may be.</p> <p>(5) Where an order ceases to have effect on the date specified in the order for the purposes of subsection (4) any moneys paid under the order and not disbursed shall be repaid to the defendant.</p> <p>(6) Where an order ceases to have effect on the delivery of a stillborn child, any moneys paid under the order and not disbursed shall, as directed by the court:</p>

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				<p>(a) be paid to the woman; or</p> <p>(b) be repaid to the defendant; or</p> <p>(c) be divided between the woman and the defendant in such proportions as the court thinks fit.</p> <p>(7) Where an order is made under subsection (1) in the case of a woman who is pregnant by the defendant:</p> <p>(a) the court may, at any time while the order is in force, with or without any application for that purpose, and, if upon application, after notice of such application given in such manner and to such persons as the court may direct, give such directions as the court thinks proper with respect to the disbursement of any amounts paid under the order, but not so as to direct the disbursement, before the woman is delivered of a child or stillborn child, of amounts aggregating more than one-half of the amount to be paid under the order; and</p> <p>(b) amounts paid under the order shall not be disbursed otherwise than in accordance with directions so given.</p> <p>(8) Where a complaint has been made under section 14, the court may, if a claim for preliminary expenses is made at the hearing of the complaint, and subject to subsection (2), make an order under subsection (1) for the payment of those expenses, notwithstanding that a complaint has not been made under this section.</p> <p>(9) Where a claim referred to in subsection (8) is made, the</p>

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				<p>court shall, on the application of the defendant, if it is of opinion that the defendant would be prejudiced unless the hearing were adjourned, adjourn the hearing for such period as it thinks fit.</p> <p>(10) The adoption of a child, whether before or after the commencement of this Act, does not prevent the making of an order for preliminary expenses in the same manner as if the child had not been adopted and does not affect the validity or operation of any order for preliminary expenses in respect of the child.</p> <p>(11) The death of a child, whether before or after the commencement of this Act, does not prevent the making of an order for preliminary expenses in the same manner as if the child had not died.</p> <p>(12) In this section: child includes an adopted child.</p>
			17	<p>The Court may order a father to pay for future maintenance of a child if a preliminary order under Section 16 is insufficient.</p> <p>Section 17 states:</p> <p>(1) Where a court makes an order under section 16 for or towards the payment of preliminary expenses, being an order made before the birth of the child to which it relates, the court may, upon complaint made by or on behalf of the person who</p>

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				<p>made the complaint under section 16, if it appears probable that the child will, at the expiration of 3 months after birth, be without adequate means of support provided by the father of the child, order the father to pay for or towards the maintenance of the child such amount as it thinks reasonable.</p> <p>(2) An order under subsection (1) takes effect:</p> <p>(a) where a certified copy of the registration of the birth of the child is produced to the clerk of the court by which the order is made within a period of 3 months after the birth of the child—at the expiration of that period; or</p> <p>(b) where such a certified copy is not so produced—upon the production to the clerk of that certified copy.</p> <p>(3) An order under subsection (1) does not take effect if the child to whom it relates is stillborn or dies or is adopted before the order would otherwise take effect.</p> <p>(4) An order under subsection (1) shall not be made requiring a person to make payments for or towards the maintenance a child unless:</p> <p>(a) the person has consented to the making of the order; or</p> <p>(b) the person has been given notice of the complainant's intention to apply for the order.</p> <p>(5) Where a certified copy of the registration of the birth of the child in relation to whom an order has been made under</p>

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				subsection (1) is produced to the clerk of the court, the clerk shall forthwith send by post to the defendant at the defendant's usual or last-known place of residence or business notice in writing of the name of the child, if shown in the certified copy, and of the date and place of birth of the child and the date on which and place at which the first payment under the order is required to be made.
			20	The Court can order payment of medical and other expenses under Section 20 of the Act.
			23	The Court can make a preliminary maintenance order following an ex-parte application which shall remain in force until the hearing of a complaint under Division 1 of the Act (sections 8 to 20; see specific provisions detailed above)
			24	<p>Interim orders can be made pending the determination of a maintenance order.</p> <p>Section 24 states:</p> <p>(1) Upon any occasion when the hearing of a complaint made for the purpose of obtaining an order for the maintenance of a wife, husband, or child of the family is adjourned for a period of not less than 7 days (whether or not the hearing has previously been so adjourned), the court may, after such inquiry as it thinks necessary, order the defendant to pay, for or towards the maintenance of the wife, husband, or child such amount as it thinks reasonable.</p> <p>(2) An order under this section shall not be subject to</p>

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				<p>suspension, variation, or appeal, and shall remain in force until the expiration of a period of 3 months from the date on which the order is made or until the complaint again comes before the court (whichever first occurs), and any moneys paid thereunder shall not, irrespective of the outcome of the proceedings upon the complaint, be recoverable.</p> <p>(3) The making of an order under this section shall, unless the hearing of the complaint has otherwise commenced, be deemed not to be a commencement of the hearing of the complaint, and the complaint may be heard and determined by a court whether constituted by the magistrate who constituted the court that made the order by any other magistrate.</p>
			27	<p>Orders can include provision for past maintenance (3 months).</p> <p>Section 27 states:</p> <p>Subject to this part, an order under this part for the maintenance of a person may, whether or not any application in that behalf has been made, be made to take effect from a past date, not being earlier than 3 months before the date on which the order is made, and where an order takes effect from a past date, the court may direct the past maintenance to be paid in one sum or by instalments as the court directs.</p>
			Division 2 (Sections	An order may be made as an attachment to earnings order.

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			48-64)	
			112	<p>The Court may make a maintenance order for the benefit of a child notwithstanding the fact that the parent is willing to provide a home for the child.</p> <p>Section 112 states:</p> <p>Where:</p> <p>(a) the conduct of a party to a marriage constitutes just cause or excuse for the husband or wife of that party to live separately or apart, and:</p> <p>(i) occasions the husband or wife to live separately or apart; or</p> <p>(ii) occasions the husband or wife to live separately or apart and to take a child of the family from the matrimonial home; or</p> <p>(b) the conduct of a parent constitutes just cause or excuse for a child of the family to live separately or apart, and occasions the child to live separately or apart; or</p> <p>a bona fide offer by that party or parent to provide a home for the husband or wife or child, as the case may be, is not of itself a sufficient answer to a complaint under this Act for the maintenance of the husband or wife or child, or a sufficient reason for the discharge, suspension, or variation of an order under this Act for the maintenance of the husband or wife or</p>

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				child, and, in the case of a child, the court may, if it appears just so to do having regard primarily to the welfare of the child, make a maintenance order for the benefit of the child notwithstanding that the parent is willing to receive and maintain the child in his or her own home or elsewhere.
			125	<p>An agreement between the parents is no bar to the Court making a maintenance order.</p> <p>Section 125 states:</p> <p>An agreement by a husband, wife, father, or mother shall not take away or restrict any of the liabilities of the husband, wife, father, or mother under this Act in respect of the maintenance of a person, or affect the operation of a maintenance order against the husband, wife, father, or mother, or the right of the court to make any such order, but the court may, having regard to the existence of the agreement and to all the circumstances of the case, refuse to make any such order.</p>
			133	<p>Section 133 describes what happens to maintenance payments if a child becomes a child in care.</p> <p>Section 133 states:</p> <p>Where an order for the maintenance of a child is enforceable under this Act, and the child becomes a child in care under the <i>Child Protection Act 1999</i>, all moneys becoming due thereafter under the order whilst the child remains a child in care shall, upon payment or recovery, be disbursed by the</p>

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				clerk of the court to the chief executive of the department for the purposes of the <i>Family Services Act 1987</i> for or towards the maintenance of the child.
	Public Health Act 2005	Queensland	197	<p>A designated medical officer may make a care and treatment order for a child requiring a child to be held at a health service facility.</p> <p>Section 197 states:</p> <p>(1) This section applies if a designated medical officer becomes aware, or reasonably suspects, that a child at a health service facility:</p> <ul style="list-style-type: none"> (a) has been harmed or is at risk of harm; and (b) is likely to leave or be taken from the facility and suffer harm if the designated medical officer does not take immediate action. <p>(2) The designated medical officer may order that the child be held at the facility (a care and treatment order).</p> <p>(3) The designated medical officer must immediately make a written record of the care and treatment order that includes the following:</p> <ul style="list-style-type: none"> (a) details of the child's condition; and (b) the reasons for the order; and

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				<p>(c) the name of the facility where the child is held; and</p> <p>(d) the time that is 48 hours from the time the order is made.</p> <p>(4) The designated medical officer must explain to the child in general terms the purpose and effect of the order.</p>
			200	<p>A designated medical officer must inform the parents of a child held under a care and treatment order.</p> <p>Section 200 states:</p> <p>(1) As soon as practicable after making a care and treatment order for a child, the designated medical officer must:</p> <p>(a) tell at least 1 of the child's parents about the order including the matters contained in the written record of the order; and</p> <p>(b) tell the parent that it is an offence to remove the child from the health service facility while the order is in force; and</p> <p>(c) if asked by the parent, give the parent a copy of the written record of the order; and</p> <p>(d) tell the parent that the parent may choose to have the child examined by a doctor chosen by the parent.</p> <p>(2) However, the designated medical officer need not comply with subsection (1) if the officer reasonably believes:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or</p> <p>(b) compliance with the subsection may expose the child to harm.</p>
			203; 204	<p>A designated medical officer may extend a care and treatment order (Section 203) and must inform the parents of the child of any extension (Section 204).</p> <p>Section 204 states:</p> <p>(1) This section applies if a care and treatment order for a child has been extended by a designated medical officer.</p> <p>(2) The designated medical officer extending the order must:</p> <p>(a) advise the child's parents about the extension of the order including the following:</p> <p>(i) the reasons for the extension; and</p> <p>(ii) the time when the order ends; and</p> <p>(b) if asked by the parent, give the parent a copy of the reasons for the extension of the order.</p> <p>(3) However, the designated medical officer need not comply with subsection (2) if the officer reasonably believes:</p>

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				<p>(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or</p> <p>(b) compliance with the subsection may expose the child to harm.</p>
			213	It is an offence under the Act to remove a child held at a health service facility.
			10	The Supreme Court may make a declaration of parentage.
	Status of Children Act 1978		Division 2	The Act specifies parentage presumptions in various circumstances such as children conceived by fertilisation procedures (to married women with husband's consent (Subdivision 2); to women with female de facto partner (Subdivision 2A).
			Division 3	The Act specifies parentage presumptions arising from: marriage (Section 24); birth registration (Section 25); court findings (Section 26); acknowledgment (Section 27); and cohabitation (Section 28).

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	Surrogacy Act 2010	Queensland	18	<p>The birth parents of a child born under a surrogacy arrangement are required to register the birth of the child.</p> <p>Section 18 states:</p> <p>To remove any doubt, it is declared that the requirement under the <i>Births, Deaths and Marriages Registration Act 2003</i> to register the birth of a child applies to the birth parents of a child born as a result of a surrogacy arrangement.</p>
			35	<p>If a parentage order is made the child's names are the names approved by the Court.</p> <p>Section 35 states:</p> <p>(1) On the making of a parentage order, the child's names are the names the court approves for the child in the parentage order.</p> <p>(2) In approving a name under this section, the court must have regard to the child's wellbeing and best interests and must not approve a name that is a prohibited name under the <i>Births, Deaths and Marriages Registration Act 2003</i>.</p> <p>(3) This section does not prevent a name of the child being changed later under a law of the State or the Commonwealth.</p>
			39	<p>If a parentage order is made a child becomes the child of the intended parents and vice versa and the child stops being a child of the birth parents and vice versa.</p>

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				<p>Section 39 states:</p> <p>(1) This section applies if the court makes a parentage order in relation to a child in favour of an intended parent, or intended parents.</p> <p>(2) On the making of the parentage order:</p> <p>(a) the child becomes a child of the intended parent, or intended parents, and the intended parent, or intended parents, become the parent, or parents, of the child; and</p> <p>(b) the child stops being a child of a birth parent and a birth parent stops being a parent of the child.</p> <p>(3) Other relationships are determined in accordance with subsection (2).</p> <p>(4) However, for the purpose of applying a law relating to a sexual offence where a familial relationship is relevant, the child is taken to have both the familial relationships that existed before the making of the parentage order as well as the familial relationships that result from the making of the parentage order.</p>
			Part 4	A parentage order may be discharged under Part 4 of the Act.

5. South Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Adoption Act 1988</p>	<p>South Australia</p>	<p>8A</p>	<p>Before making an order for the adoption of a child of or over 5 years of age, the Court must interview the child to determine what the child's opinion is in relation to the proposed order (unless satisfied that the child is intellectually incapable of expressing an opinion).</p> <p>In determining whether to make an order for the adoption of a child the Court must take into account any opinion expressed by the child in an interview under this section.</p> <p>'the Court' means the Youth Court of South Australia (see section 4 - Interpretation)</p>
			<p>9(2)</p>	<p>If an adoption order is made in favour of a person who is cohabiting with a birth of the child in a marriage relationship, the relationship of that parent to the child is not affected by the order.</p>
			<p>10</p>	<p>The Court will not make an adoption order in favour of a person who is cohabiting with a birth parent of the child in a marriage relationship, unless that adoption is clearly preferable, in the interests of the child, to any alternative order that may be made under the laws of South Australia or the Commonwealth.</p> <p>The Court will not consider an application for adoption made by or on behalf of a person cohabiting with a birth parent of the child in a marriage relationship unless the Family Court of Australia has given that person leave to proceed with the application for adoption under</p>

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				section 60G of the <i>Family Law Act 1975</i> .
			11(1)	The Court will not make an order for the adoption of an Aboriginal child unless satisfied that adoption is clearly preferable, in the interests of the child, to any alternative order that may be made under the laws of South Australia or the Commonwealth.
			14	The Court may discharge an adoption order if it appears that the order was obtained by fraud, duress or other improper means.
			15	<p>An adoption order will not be made unless each person who is a parent or guardian of the child has consented to the adoption.</p> <p>A child's mother cannot consent to the adoption of her child until 5 days after the birth of the child. A mother's consent given more than 5 days but less than 14 days after the birth of the child will not be recognised as a valid consent to the child's adoption except where the Court recognises the validity of such consent if satisfied that special circumstances existed and the mother was able to exercise a rational judgment on the question of consent.</p> <p>The consent of the father of a child born outside lawful marriage is not required unless his paternity is recognised under the law of South Australia. If it appears to the Court that a particular person may be able to establish paternity of the child (except where paternity arises from unlawful sexual intercourse with the mother), the Court will not proceed to make an adoption order without allowing that person a reasonable opportunity to establish paternity.</p>
			16	An adoption order will not be made in relation to a child over the age of 12 years unless the child has consented to the adoption in

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				accordance with this section.
			18	<p>The Court may dispense with the consent of a person (other than the child) to an adoption where it appears to the Court:</p> <p>(a) that the person cannot, after reasonable inquiry, be found or identified; or</p> <p>(b) that the person is in such a physical or mental condition as not to be capable of properly considering the question of consent; or</p> <p>(c) that the person has abandoned, deserted or persistently neglected or ill-treated the child; or</p> <p>(d) that the person has, for a period of not less than one year, failed, without reasonable excuse, to discharge the obligations of a parent of the child; or</p> <p>(e) there are other circumstances by reason of which the consent may properly be dispensed with.</p>
			23(1)	Where the Court makes an order for the adoption of a child it may by the same or a subsequent order declare the name by which the child is to be known.
			26A	If a party to the adoption or proposed adoption of a child (i.e. the birth parents and the adoptive parents) wishes to enter into an arrangement with another party to the adoption for provision of information, contact or any other matters related to the welfare of the child, or to vary such arrangement, the Chief Executive responsible for the administration of the Act will endeavour to facilitate the

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				<p>making of the arrangement or variation.</p> <p>The Chief Executive must ensure that the opinions of the child (so far as they are ascertainable) are taken into account in formulating any arrangement or variation under this section.</p> <p>An arrangement may not be entered into under this section in relation to an adopted child who has attained the age of 18 years and an arrangement relating to an adopted child will terminate on the child attaining the age of 18 years.</p> <p>The Chief Executive must maintain a register of any such arrangements entered into under this section.</p>
			27	<p>An adopted person who has reached the age of 18 may obtain certain information from the Chief Executive regarding his or her parents, subject to any unjustifiable intrusion on the privacy of the person to whom the information relates, to be determined by the Chief Executive.</p>
			27A	<p>The Chief Executive may disclose information to an adopted person prior to him or her reaching the age of 18 if consent to the disclosure is given by the adoptive parents and, if the name of the birth parent is to be disclosed, that parent.</p>
			28	<p>An agreement under which a parent or guardian of a child receives any consideration (other than consideration of a kind authorised by the Chief Executive) for a consent to the adoption of a child, is illegal and void. Breach of this provision is an offence.</p>

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			29	A person or organisation that conducts negotiations leading, or intended to lead, to the making of an adoption order is guilty of an offence, except in the circumstances set out in this section.
			35	A person must not present, or cause to be presented, in connection with an application for an adoption order a document purporting to be an instrument of consent to the adoption knowing that the signature to the document is or was forged or obtained by fraud, duress or other improper means. A penalty applies for breach of this provision.
			41	<p>The Registrar of Births, Deaths and Marriages must, on receipt of notice of the adoption of a child, cancel any entry formerly made in the register of births relating to a child and make a fresh entry which states the names of the persons who are in contemplation of law the parents of the child following the adoption.</p> <p>The Court may, on application of the adoptive parents or the Chief Executive, direct the Registrar not to cancel any former entry but instead to add to that entry a note of the names of the adoptive parents.</p> <p>Where either or both of the birth parents of the child are alive, the Court must not give a direction not to cancel a former entry unless satisfied that the information relating to the birth parents of the child contained in the entry is known to the child or that the birth parents approve of the child having access to that information.</p> <p>The Registrar must not allow any person access to information contained in an entry cancelled under this section except on the authorisation of the Chief Executive.</p>

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				The Registrar may, without the authorisation of the Chief Executive, allow access to information contained in a cancelled entry to a person to whom the entry relates if he or she has attained the age of 18 or to a birth parent of the person to whom the entry relates.
	Births, Death and Marriages Registration Act 1996	South Australia	13	<p>Cases where a birth <u>must</u> be registered under this Act:</p> <p>If a child is born in South Australia; or</p> <p>If an Australian Commonwealth or State court directs the registration of a birth in South Australia.</p> <p>Cases where a birth <u>may</u> be registered under this Act:</p> <p>If a child is born in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation in South Australia; or</p> <p>If a child is born outside the Commonwealth but the child is to become a resident of South Australia (or, in the case of a still-born child, the person responsible for having the child's birth registered is or is to become a resident of South Australia).</p> <p>Note: The Registrar must not register a birth in either of the cases described in the last 2 points above if the birth is registered under a corresponding law.</p>
			14	A person has a child's birth registered under this Act by lodging a 'birth registration statement' in a form approved by the Registrar of Births, Deaths and Marriages containing the information required by the regulations (set out in section 5 of the <i>Births, Deaths and</i>

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				<i>Marriages Registration Regulations 2011 (SA)</i> .
			15	<p>(1) A child's parents are jointly responsible for having the child's birth registered under this Act (and must both sign the birth registration statement).</p> <p>The Registrar may accept a birth registration statement from one parent if satisfied that it is impossible, impracticable or inappropriate for the other parent to join or be required to join in the application whether because of his or her death, disappearance, ill-health or unavailability or the need to avoid unwarranted distress or for some other reason.</p> <p>(2) If a child is a foundling, the person who has custody of the child is responsible for having the birth registered.</p> <p>(3) The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that the person lodging the statement has knowledge of the relevant facts and the child's parents are unable or unlikely to lodge a birth registration statement.</p>
			16	<p>A person responsible for having a child's birth registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth. A penalty applies for non-compliance.</p> <p>However, the Registrar must accept a birth registration statement even though it is lodged after the 60 day period has expired.</p>

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			18	<p>The Registrar may include registrable information about a child's parents in the Register after registration of the child's birth if:</p> <p>(a) the child's parents make a joint application for the addition of the information; or</p> <p>(b) one parent makes an application for the addition of the information and the other parent cannot join in the application because he or she is dead, cannot be found or for some other reason.</p> <p>The Registrar must include or correct registrable information about a child's parents in the Register after registration of the child's birth if a court (whether of South Australia or any other State or the Commonwealth) directs the inclusion or correction of the information in the Register or the Registrar is advised of a finding by a court that a particular person is a parent of the child.</p>
			19	<p>The Magistrates Court may, on application by an interested person or on its own initiative, order the registration under this Act of a birth that has occurred in South Australia, or the inclusion or correction of registrable information about a birth or a child's parents in the Register.</p>
			20	<p>If a court finds that a child's birth is not registered as required under this Act or a corresponding law or that the registrable information contained in an entry about a birth in the Register under this Act or a corresponding law is incomplete or incorrect, the court may direct registration of the birth or the inclusion or correction of registrable information in the Register under this Act or the corresponding law (as the case may require).</p>

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			21	<p>The birth registration statement must state the child's name.</p> <p>The name is a matter of choice for the person/s lodging the statement, but the Registrar may assign a name to a child if the name stated is a prohibited name or the parents are unable to agree on the child's name.</p>
			22	<p>Either parent may apply to the Court for resolution of a dispute between the parents about a child's name.</p> <p>The Court may then resolve the dispute and order the Registrar to register the child's name in a form specified in the order.</p>
			22A	<p>The Registrar may receive a notice under section 10HD of the <i>Family Relationships Act 1975</i> in relation to the making or discharge of a surrogacy order about a child whose birth is registered in South Australia. The Registrar must register the particulars provided in the notice in relation to the registration of the child's birth and child's name.</p> <p>The Registrar must also make entries and alterations to the Register as are necessary to give effect to the operation of section 10HB(13) or 10HC(10) (as the case requires) of the <i>Family Relationships Act 1975</i>. These provisions deal with the child/parent relationship.</p>
			43	<p>The Registrar may:</p> <ul style="list-style-type: none"> (a) allow a person (or organisation) to access the Register; or (b) provide a person (or organisation) with information extracted

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				<p>from the Register,</p> <p>if that person (or organisation) has an adequate reason for wanting access to or information from the Register.</p> <p>Note: The Registrar may impose appropriate conditions.</p>
	Family and Community Services Act 1972	SA	40	Under section 40, the purpose of the foster care system is to provide for the care of a child in a safe and stable family environment during any period while the child cannot, for any reason, remain within the care of his or her own family.
	Family Relationships Act 1975	SA	Various	This Act sets out the rules governing family relationships. Under section 6, all children are of equal status. Under s6(1), subject to this Act, the relationship of parent and child exists, for the purposes of the law of this State, between a person and his natural father or mother, and other relationships of consanguinity or affinity shall be traced accordingly.
			7	<p>Section 7 contains provisions relating to the recognition of paternity.</p> <p>Under this section, a person shall be recognised as the father of a child born outside marriage only if—</p> <p>(a) he is recognised as father of the child by reason of legitimation of the child, or under the law relating to the adoption of children; or</p> <p>(b) he has acknowledged in proceedings for registration of the birth of the child (either in this State or in some other place) that he is</p>

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				<p>the father of the child; or</p> <p>(c) he has been, during his lifetime, adjudged by a court of competent jurisdiction (either of this State, or of some other place) to be the father of the child; or</p> <p>(d) he has been adjudged under this Act to be the father of the child,</p> <p>and no other person is, under this Act, taken to be the father or co-parent of the child.</p>
			10C	<p>Section 10C contains the rules relating to parentage. For example, under section 10C(1), a woman who gives birth to a child is, for the purposes of the law of the State, the mother of the child (whether the child was conceived by the fertilisation of an ovum taken from that woman or another woman). However, nothing in this section prevents a person becoming the mother, father or co-parent of a child in accordance with another provision of this Act, or any other Act or law.</p>
			10HB	<p>Section 10HB contains orders as to parents of child born under recognised surrogacy arrangements</p>
			10HD	<p>Under section 10HD, the Court is to notify Registrar of Births, Deaths and Marriages.</p> <p>(1) The Registrar of the Youth Court of South Australia is to give to the Registrar of Births, Deaths and Marriages written notice of the particulars described in subsection (2) if the Court makes an</p>

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				<p>order under section 10HB or 10HC.</p> <p>(2) The particulars of which notice has to be given are—</p> <p>(a) the date of the order; and</p> <p>(b) the full name, address and occupation of each of the birth parents; and</p> <p>(c) the full name, address and occupation of each of the commissioning parents; and</p> <p>(d) the name by which the child to whom the order relates is known before, and is to be known after, the order becomes effective; and</p> <p>(e) details of the date and place of birth of the child; and</p> <p>(f) if relevant, the terms of any consequential or ancillary order made under section 10HC(9); and</p> <p>(g) any particulars prescribed by the regulations; and</p> <p>(h) if available, any other information required by the Registrar of Births, Deaths and Marriages in relation to registration under the Births, Deaths and Marriages Registration Act 1996 of the birth of the child to whom the order relates.</p>

6. Western Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Births, Death and Marriages Registration Act 1998</p>	<p>Western Australia</p>	<p>13</p>	<p>Cases where a birth must be registered under this Act:</p> <p>(1) If a child is born in Western Australia; or</p> <p>(2) If a court of Western Australia orders that a birth be registered in Western Australia.</p> <p>Cases where a birth may be registered under this Act:</p> <p>(1) If a court of another State or of the Commonwealth makes a determination that a birth should be registered in Western Australia and the Registrar considers it appropriate to do so.</p> <p>(2) If a child is born outside the Commonwealth, but the child is to become (or in the case of a still-birth was to become) a resident of Western Australia.</p> <p>(3) If a child is born in an aircraft during a flight to an airport in Western Australia or on a vessel during a voyage to a port in Western Australia (if the birth is not registered under a corresponding law).</p>
			<p>14</p>	<p>A person has the birth of a child registered under this Act by lodging a birth registration statement in an approved form.</p>
			<p>15</p>	<p>(1) The parents of a child are jointly responsible for having the child's birth registered under this Act (and must both sign the birth registration statement).</p>

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				<p>The Registrar may accept a birth registration statement from one of the parents if satisfied that it is impracticable for the other parent to join or be required to join in the application because of his or her death, disappearance, ill health or unavailability or the need to avoid unwarranted distress to obtain the signatures of both parents on the birth registration statement.</p> <p>(2) If a child is a foundling, the person with responsibility for the long-term care, welfare and development of the child is responsible for having the child's birth registered.</p> <p>(3) The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that the person lodging the statement has knowledge of the relevant facts and the child's parents are unable or unlikely to lodge a birth registration statement.</p>
			16	<p>A person who is responsible under s 15(1) or (2) for having a child's birth registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth.</p> <p>Note: There is a penalty for non-compliance.</p> <p>However, the Registrar must accept a birth registration statement even though it is lodged after the end of the 60 day period.</p>
			17	<p>The Registrar must register a birth by making an entry about the birth in the Register including such particulars as the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Registrar considers appropriate to register the birth.</p> <p>If the particulars available to the Registrar are incomplete the Registrar may register a birth on the basis of incomplete particulars.</p>
			18	<p>The Registrar is not to include information about the identity of a child's parents in the Register unless:</p> <p>(a) both parents of the child make a joint application for the inclusion of registrable information about that identity; or</p> <p>(b) one parent of the child makes an application for the inclusion of registrable information about that identity and the other parent cannot join in the application because he or she is dead, cannot be found or for some other reason; or</p> <p>(c) one parent of the child makes an application for the inclusion of registrable information about that identity and the Registrar is satisfied that the other parent does not dispute the correctness of that information; or</p> <p>(d) a State court orders the inclusion of registrable information about the identity in the Register or makes a finding that a particular person is a parent of a child; or</p> <p>(e) a court of another State or of the Commonwealth makes a determination that registrable information about the identity should be included in the Register or makes a finding that a particular person is a parent of a child and the Registrar considers that it is appropriate to include the information in the Register; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(f) the Registrar is entitled under any law (including a law of another State or Commonwealth) to make a presumption as to the identity of the child's parent.</p> <p>The Registrar may include information about the identity of a child's parent in the Register if:</p> <p>(a) the Registrar is not prevented from doing so by any of the reasons above; or</p> <p>(b) despite any of the reasons above, both parents are unable to give registrable information about the identity of a child's parent or parents for some reason or are unavailable and another person can provide information to the Registrar's satisfaction as to the identity of the child's parent or parents; or</p> <p>(c) despite any of the reasons above, one parent has provided the birth registration statement and the registrable information relates only to the identity of that parent.</p>
			19	Subject to section 18 above, a person may apply to the Registrar for the inclusion of additional registrable information about a child's birth registration in the Register.
			20	A State court may, on application by an interested person or on its own initiative, order the Registrar to register a birth or include or correct registrable information about a birth or a child's parents in the Register.
			21	<p>If a State court finds that:</p> <p>(a) the birth of a person is not registered as required under</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>this Act or a corresponding law; or</p> <p>(b) the registrable information contained in an entry about a birth in the Register under this Act or a corresponding law is incomplete or incorrect; or</p> <p>(c) information about the identity of a child's parents should be included in the Register under this Act or a corresponding law; or</p> <p>the State court may order the registration of the birth or order the inclusion or correction of registrable information in the Register or make a determination for the purposes of the corresponding law (as is applicable to the case).</p> <p>The Registrar may register a birth or amend the Register in accordance with the determination of a court of another State or of the Commonwealth which has made a finding of a kind referred to above if the Registrar considers it is appropriate to do so.</p>
			22	<p>The birth registration statement must state the child's name.</p> <p>The name is a matter of choice for the person/s lodging the birth registration statement.</p> <p>The Registrar may assign a name to a child if the name stated in the birth registration statement is a prohibited name or if the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.</p> <p>If the Family Court has resolved a dispute about a child's</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>name the Registrar must assign or re-assign the child's name in accordance with the court orders.</p> <p>If a court of another State or of the Commonwealth has resolved a dispute about a child's name the Registrar may assign or re-assign the child's name in accordance with the determination if the Registrar considers that it is appropriate to do so.</p>
			24	<p>On receipt of a notice under section 78(1) of the Adoption Act 1994, in relation to an adoptee whose birth is registered in Western Australia, the Registrar must register the particulars provided in relation to the registration of the adoptee's birth.</p> <p>On receipt of a notice under section 32(1) of the <i>Surrogacy Act 2008</i> in relation to the making or discharge of a parentage order about a child whose birth is registered in Western Australia, the Registrar must register the particulars provided in relation to the registration of the child's birth.</p>
			25	<p>On receipt of a notice under section 78(1) of the Adoption Act 1994 in relation to an adoptee whose birth is registered in another State, the Registrar must register the adoptee's birth in accordance with the information provided under section 78 of that Act.</p> <p>On receipt of a notice under section 32(1) of the <i>Surrogacy Act 2008</i> in relation to the making or discharge of a parentage order about a child whose birth is registered in another State, the Registrar must register the child's birth in accordance with the information provided under section 32 of that Act.</p> <p>The Registrar is not required to register a birth under either</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>provision above if the birth is registered under a corresponding law and information about the adoption order or parentage order or the discharge of the adoption order or parentage order as is applicable in the case is registered under a corresponding law.</p> <p>If a birth is to be registered under either of the provisions above but some of the information required to register the birth is not available, the Register may endorse the birth registration to the effect that the information was not available when the birth was registered.</p>
			26	<p>If an adoption order or parentage order is made or discharged under a law in force in another State and the order was made or discharged in relation to a person whose birth is registered under this Act, the particulars (if any) provided under that law must be registered by the Registrar in relation to the registration of the person's birth.</p>
	Adoption Act 1994	Western Australia	74	<p>Name of the adoptee</p> <p>(1) If an adoption order is made, the Court is to, by the same order, declare the name by which the adoptee is to be known.</p> <p>(2) Before making an order changing an adoptee's name, the Court is to have regard to —</p> <p>(aa) the principle that a child's first name should not be changed at the time of adoption except in special circumstances;</p> <p>(a) section 34(3) of the Births, Deaths and Marriages</p>

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				<p>Registration Act 1998;</p> <p>(b) the wishes expressed by the adoptee on the subject; and</p> <p>(c) any adoption plan that is made in relation to the adoptee and approved by the Court.</p> <p>(3) The Court is not to change the name of an adoptee who is 12 or more years of age unless the adoptee —</p> <p>(a) consents to the change; or</p> <p>(b) is incapable by reason of mental disability of consenting.</p> <p>(4) An order under this section does not prevent a subsequent change of name under a law of the State or the Commonwealth.</p>
			75	<p>(1) Where an adoption order is made, for the purposes of the law of this State —</p> <p>(a) the relationship between the adoptee and the adoptive parent is to be treated as being that of child and parent;</p> <p>(b) the relationship between the adoptee and —</p> <p>(i) the adoptee’s birth parents; or</p> <p>(ii) if the adoptee was previously adopted, the previous adoptive parent,</p> <p>is to be treated as not being that of child</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>and parent;</p> <p>(c) if the adoptee had been previously adopted, whether under the law of this State or otherwise, the previous adoption ceases to have effect; and</p> <p>(d) the relationships of all persons to the adoptee, the adoptive parent and the birth parent or previous adoptive parent are to be determined in accordance with this section.</p>
			78(2)	If the adoptee's birth is not registered in Western Australia under the <i>Births, Deaths and Marriages Registration Act 1998</i> , then the Registrar must be notified and particulars relating to the birth of the adoptee (including the name and address of the adoptee's birth parents) must be provided.
	Surrogacy Act 2008	Western Australia	38(1)	<p>(1) A person has the right to have access to the registration of the birth of a person whose parentage has been transferred by a parentage order if and only if the person who is to have access is —</p> <p>(a) the child to whose parentage the order relates; or</p> <p>(b) a birth parent of the child; or</p> <p>(c) an arranged parent of the child.</p> <p>(2) Even though subsection (1) gives a person the right to have access to the registration of the birth, that access may be refused if —</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<ul style="list-style-type: none"> (a) the person has not produced to the Registrar of Births, Deaths and Marriages or another appropriate officer proof of the person's identity; or (b) the person has not complied with a requirement of, or under, the <i>Births, Deaths and Marriages Registration Act 1998</i> relating to that access. <p>(3) Subsection (1) does not prevent a person from exercising a right given by section 40(2) or 41(2) to have access to the registration of the birth.</p>

7. Northern Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Births, Deaths and Marriages Registration Act</p>	<p>Northern Territory</p>	13	<p>If a child is born in the Northern Territory, the birth must be registered under this Act.</p> <p>If a child is born outside the Commonwealth but is to become a resident of the Northern Territory, the birth may be registered under this Act (except where the birth is registered under a corresponding law).</p>
			14	<p>A birth is registered when a statement ('birth registration statement') in a form approved by the Registrar containing the information required by the Regulations is lodged.</p> <p>'Registrar' means the Registrar of Births, Deaths and Marriages (see section 4).</p>
			15	<p>The parents of a child are jointly responsible for having the child's birth registered.</p> <p>The Registrar may accept a birth registration statement from only one of the parents if satisfied that it is impossible, impractical or inappropriate for the other parent to join in the application.</p> <p>If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered.</p> <p>The Registrar may accept a birth registration statement from a person not responsible for having the birth registered, if satisfied that the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				person lodging the statement has knowledge of the relevant facts and the child's parents are unable or unlikely to lodge a birth registration statement.
			16	<p>A birth registration statement must be lodged with the Registrar within 60 days after the birth. A penalty applies for non-compliance with this provision.</p> <p>However, the Registrar must accept a birth registration statement even if it is lodged after the 60 day period has expired.</p>
			17	<p>The Registrar registers a birth by making an entry about the birth in the Register, including the particulars required by the Regulations.</p> <p>'Register' means the Register of births, changes of name or sex, deaths and marriages maintained under the Act (see sections 4 and 38).</p> <p>The Registrar may register a birth on the basis of incomplete particulars.</p>
			18	The Court may, on application by an interested person or on its own initiative, order the registration of a birth or the inclusion of registrable information about a birth or a child's parents in the Register.
			19	The Registrar may include registrable information about a child's parents in the Register after registration of the child's birth if the parents make a joint application for addition of the information or if one parent makes an application for addition of the information and the other parent cannot join in the application or a court orders the inclusion of the information in the Register or makes a finding that a

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				<p>particular person is a parent of the child.</p> <p>The Court may, on application by an interested person, order the addition of specified details of a child's parentage or details of a marriage of a child's parents in the Register.</p> <p>'Court' means the Supreme Court (see section 4).</p>
			20	<p>The birth registration statement must state the name of the child.</p> <p>The name of the child is a matter of choice for the person/s lodging the birth registration statement.</p> <p>The Registrar may assign a name to the child if the name stated in the birth registration statement is a prohibited name or the parents are unable to agree on the child's name.</p>
			21	<p>If the Court is required to resolve a dispute between parents about a child's name, the Court may resolve the dispute and order the Registrar to register the child's name in a form specified in the order.</p>
			41	<p>The Registrar may (on conditions it considers appropriate):</p> <p>allow a person (or organisation) that has an adequate reason for wanting access to the Register to access the Register; or</p> <p>provide a person (or organisation) that has an adequate reason for wanting information from the Register with information extracted from the Register.</p>

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			42	<p>The Registrar may, on application, search the Register for an entry about a particular registrable event (including a birth).</p> <p>The applicant must state the reason for the applicant's interest in the subject-matter of the search.</p> <p>A person has an adequate reason for a search to be made of the Register if the person, in respect of whom information is sought to be obtained is an adopted child or natural parent or grandparent or adoptive parent of the person requiring the search.</p>
			43	<p>In providing information extracted from the Register, the Registrar must, as far as practicable, protect the person/s to whom the entries in the Register relate from unjustified intrusion on their privacy.</p>
	Guardianship of Infants Act	Northern Territory	7	<p>The mother and father of an infant shall jointly have guardianship and custody of the infant while an infant and each parent shall have equal authority, rights and responsibilities with regard to the infant.</p> <p>Where an infant's parents were not married to each other at the time of the infant's conception and have not since married each other and no person is recognized as the father under this Act, the mother shall have the guardianship and custody of the infant while an infant.</p>

8. Tasmania

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Adoption Act 1988</p>	<p>Tasmania</p>	<p>3 - Interpretation</p>	<p>'adopted person' means a person's:</p> <ul style="list-style-type: none"> - an order for whose adoption was made under this Act or any other corresponding or previous enactment; or - an order for whose adoption was made, whether before or after commencement of this section 3, in a place outside Tasmania if the birth of that person has been registered in Tasmania. <p>'adoption order' means an order for the adoption of a person made under this Act.</p> <p>'Child' means:</p> <ul style="list-style-type: none"> - a person who has not attained the age of 18 years; or - a person who has attained that age in respect of whom an adoption order is sought. <p>'Court' means the Magistrates Court (Children's Division).</p> <p>'Register' means the register maintained under the <i>Births, Deaths and Marriages Registration Act 1999</i>.</p> <p>'Registrar' means the Registrar of Births, Deaths and Marriages.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>'relevant authority', in relation to an application under Part VI (access to information), means:</p> <ul style="list-style-type: none"> - the Secretary (of the Department); or - where the application relates to information contained in records, or a copy of a birth certificate, in the possession, or under the control, of an agency, that agency.
			50 - General effect of adoption orders	<p>Generally, on the making of an adoption order:</p> <ul style="list-style-type: none"> - the adopted person shall be treated in law as a child of the adoptive parents and the adoptive parents shall be treated in law as the parents of the adopted person; and - the adopted person shall be treated in law as if the adopted person were not a child of any person who was a parent (whether natural or adoptive) of the adopted person before the making of the adoption order, and any such person shall be treated in law as if the person were not a parent of the adopted person.
			62 - Memorandum of adoption order to be sent to the Registrar	As soon as is reasonably practicable after the making of an adoption order [or of an order for the discharge of an adoption order], the court shall cause a memorandum of the order in accordance with the prescribed form to be sent to the Registrar.
			63 - Record of adoptions and	Where the Registrar receives:

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			endorsements to be made in birth registers in relation to adopted person	<p>- a memorandum of adoption under section 62 in respect of a person whose birth is registered in Tasmania; or</p> <p>- a memorandum under a law of another State or Territory corresponding to section 66 relating to the making in that State or Territory of an order for the adoption of any such person; or</p> <p>the Registrar shall re-register the birth in accordance with this section and the particulars specified in that memorandum.</p> <p>Where:</p> <p>- a person whose birth is registered in Tasmania has been adopted in a place outside Australia; and</p> <p>- the order for adoption is an order to which section 60 (recognition of foreign adoptions) applies,</p> <p>the Registrar shall:</p> <p>- on application by the adopted person or a person in favour of whom the order was made; and</p> <p>- on production of a document purporting to be the relevant adoption order or some other document relating to an adoption order in respect of that person made in a place outside Australia;</p> <p>re-register the birth in accordance with this section and the particulars specified in that document.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			64 - Record of adoptions of persons born outside Australia	<p>Record of adoptions of persons born outside Australia</p> <p>(1) The Registrar shall, on receipt of a memorandum under <u>section 62</u> in relation to the making of an adoption order for the adoption of a person born in a place outside Australia, cause an entry in the prescribed form to be made in the special record.</p> <p>(2) Where, before the commencement of this section—</p> <p>(a) an order for the adoption of a person born in a place outside Australia was made under <u>the repealed Act</u>; or</p> <p>(b) an order for the adoption of a person born in any such place was registered in the former register of adoptions—</p> <p>the Registrar may, on application by that person or an adoptive parent of that person, cause to be made in relation to that person the same entry in the special record as he would have made if the order for the adoption of that person had been made under this Act after the commencement of this section.</p>
			67 - Entries in registers of births not to be disclosed	Where an order has been made for the adoption of a person whose birth has been registered in Tasmania, the adopted person may apply to the Registrar for the issue of an extract from, or a certified copy of, the entry in the register relating to the adopted person.
			72 - Duties of relevant	(1) Where a relevant authority receives an application for information under this Part, the relevant authority shall, subject

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			authorities to provide information	<p>to and in accordance with this Part –</p> <p>(a) so far as the information to which the application relates is contained in records in the possession or under the control of the relevant authority, give the information to the applicant if the information is such as may be given to him under this Part; and</p> <p>(b) where the relevant authority is the Secretary and the information to which the application relates is not contained in records in his possession or under his control, request any agency, body, or person from which or from whom the information may be available–</p> <p>(i) to give the information to the Secretary; or</p> <p>(ii) where the applicant agrees and the request so states, to give the information to the applicant, so far as the information may be given to him under this Part.</p>
			73 - Secretary may obtain information from the court	The Secretary may apply to the court for such information from its records relating to proceedings as a result of which an adoption order was made by that court as will enable the Secretary to seek or obtain information that.
			78 - Provision of information by relevant authorities	On application in accordance with this Division 2 (persons entitled to birth certificates or information), a relevant authority shall, subject to this Part VI (access to information), provide information about an adopted person or the natural parents or the natural relatives of the adopted person if the relevant authority is satisfied that the information:

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				<ul style="list-style-type: none"> - is reasonably likely to be true; and - does not unreasonably disclose information relating to the personal affairs of a natural parent, natural relative, or any other person.
			79 - Access to birth certificates of adopted persons born outside Tasmania	Where an order has been made for the adoption of a person whose birth was not registered in Tasmania, the adopted person may, whether before or after attaining the age of 18 years and whether the order was made before or after the commencement of this section, apply to a relevant authority for a copy of, or an extract from, or certified copy of, the birth certificate relating to himself contained in records relating to his adoption that are in the possession, or under the control, of the relevant authority, an agency, another body or person, or of the court.
			81 - Adopted person's right to information under age 18	<p>An adopted person who has not attained the age of 18 years may, subject to this section, apply to a relevant authority for information about himself.</p> <p>There shall not be given to an applicant under this section any information from which the identity of a natural parent of the applicant may be ascertained unless the relevant authority has obtained the agreement in writing, or evidence of the death, of that natural parent.</p>
			87 - Power of judge to order release of information to	<p>(1) Where a person –</p> <p>(a) is unable to obtain information about an adopted person because a person whose agreement in writing is required under</p>

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			adopted persons, natural parents etc..	<p>this Division has failed to give that agreement or has not been found; or</p> <p>(b) being entitled to apply under a preceding section of this Division, desires to obtain information which he is not entitled to obtain under any other provision of this Part –</p> <p>the first-mentioned person may apply to a judge in chambers for an order permitting him to obtain that information.</p>
			89 - Adoption Information Service	<p>There shall be an Adoption Information Service established within the Department and within each approved agency (i.e. a welfare organisation approved as an adoption agency) which shall, among other things, receive applications for information under this Part VI (access to information) and facilitate the provision of information to a person whose name is entered in an Adoption Information Register maintained under section 90.</p>
			90 - Adoption Information Registers	<p>The Secretary and the principal officer of an approved agency shall each establish and maintain an Adoption Information Register which contains the names and addresses of persons, including adopted persons and their natural parents who have applied to the Secretary or the principal officer of the appropriate approved agency to enter their names and addresses in that Register.</p> <p>In relation to each person, the Register will also contain information on matters such as whether or not they wish to be contacted by another person on the Register, provision of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				information and release of name and address to another person.
	Births, Deaths and Marriages Registration Act 1999	Tasmania	3 - Interpretation	Registrar means the Registrar of Births, Deaths and Marriages. Register means the Register of registrable events kept under the Act. registrable event means a birth, change of name, death, marriage or adoption.
			12	<p>A birth of a child <u>must</u> be registered under this Act in the following cases:</p> <p>When a child is born in Tasmania; or</p> <p>If a court (whether of Tasmania, any other State or the Commonwealth) directs the registration of a birth under this Act.</p> <p>A birth <u>may</u> be registered under this Act in the following cases:</p> <p>If a child is born in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation in Tasmania (except where the birth is registered under a corresponding law); or</p> <p>If a child is born outside the Commonwealth, but the child is to become a resident of Tasmania.</p>
			13	A person has the birth of a child registered under this Act by lodging a birth registration statement in a manner and form

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				approved by the Registrar.
			14	<p>The parents of a child are jointly responsible for having the child's birth registered under this Act but the Registrar may accept a birth registration statement from one of the parents if satisfied that it is not practicable to obtain the signatures of both parents on the birth registration statement.</p> <p>If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered.</p> <p>The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that the person lodging the statement has knowledge of the relevant facts and the child's parents are unable or unlikely to lodge a birth registration statement.</p>
			15	<p>A person responsible for having the birth of a child registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth. A penalty for non-compliance applies.</p> <p>The Registrar must accept a birth registration statement even though it is lodged after the 60 day period.</p> <p>The Registrar, at any time before registering a birth, may request that further information be provided to support the birth registration statement.</p>
			16	The Registrar registers a birth by making an entry about the

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				<p>birth in the Register.</p> <p>If the particulars available to the Registrar are incomplete, the Registrar may register a birth on the basis of those incomplete particulars.</p>
			17	<p>The Registrar must not include information about the identity of any of a child's parents in the Register unless:</p> <p>(a) the father and the mother of the child make a joint application for the inclusion of registrable information about that identity; or</p> <p>(b) one parent of the child makes an application for the inclusion of registrable information about that identity and the other parent cannot join in the application because he or she is dead, cannot be found or for some other reason; or</p> <p>(c) one parent of the child makes an application for the inclusion of registrable information about that identity and the Registrar is satisfied that the other parent does not dispute the correctness of that information; or</p> <p>(d) any court having jurisdiction orders the inclusion of registrable information about that identity in the Register; or</p> <p>(e) any court having jurisdiction makes a finding that a particular person is a parent of a child; or</p> <p>(f) the Registrar is entitled under any law, including a law of another State or the Commonwealth, to make a presumption as</p>

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				<p>to the identity of the child's parent.</p> <p>The Registrar may include information about the identity of a child's parent in the Register if:</p> <p>(a) the Registrar is not prohibited by any of the reasons above; or</p> <p>(b) despite any of the reasons above, both the parents are unable to give registrable information about the identity of a child's parent or parents or are unavailable and another person can provide information to the Registrar's satisfaction as to the identity of the child's parent or parents; or</p> <p>(c) despite any of the reasons above, one parent has provided the birth registration statement and the registrable information relates only to the identity of that parent.</p>
			18	<p>A person may apply to the Registrar for the inclusion in the Register of additional registrable information about a child's birth.</p>
			19	<p>A magistrate, on application by an interested person or on his or her own initiative, may order the registration of a birth or the inclusion of registrable information about a birth or a child's parents in the Register.</p> <p>If a court, including a court of another State or the Commonwealth, finds that:</p> <p>- a birth is not registered as required under this Act or a</p>

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				<p>corresponding law; or</p> <p>- the registrable information contained in an entry about a birth in the Register under this Act or a corresponding law is incomplete or incorrect;</p> <p>the court may direct registration of the birth or the inclusion or correction of registrable information in the Register under this Act or the corresponding law.</p>
			20	<p>The birth registration statement must state the name of the child.</p> <p>The name is a matter of choice for the person or persons lodging the statement, but the Registrar may assign a name to a child if:</p> <p>- the name stated in the birth registration statement is a prohibited name; or</p> <p>- the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.</p>
			21	<p>A magistrate may resolve a dispute between the parents about a child's name as the magistrate considers appropriate and order the Registrar to register the child's name in a form specified in the order.</p>
			43	<p>The Registrar may, on any conditions the Registrar considers appropriate:</p> <p>allow a person that has an adequate reason for wanting access to</p>

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				<p>the Register, to access the Register; or</p> <p>provide a person that has an adequate reason for wanting information from the Register, with information extracted from the Register.</p>
			44	<p>The Registrar may, on application, search the Register for an entry about a particular registrable event.</p> <p>The applicant must state the reason for the applicant's interest in the subject matter of the search.</p> <p>In providing information extracted from the Register, the Registrar must, as far as practicable, protect the person/s to whom the entries in the Register relate from unjustified intrusion on their privacy.</p>

9. Australian Capital Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 7:</p> <p>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</p> <p>2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>	<p>Births, Deaths and Marriages Registration Act 1997</p>	<p>ACT</p>	<p>7</p>	<p>Circumstances when a birth <u>must</u> be registered under this Act:</p> <p>If a child is born in the ACT.</p> <p>Circumstances when a birth <u>may</u> be registered under this Act:</p> <p>If the child is born outside Australia and is to become a resident of the ACT; or</p> <p>If a child is born in an aircraft during a flight to an airport in the ACT.</p> <p>or so long as the birth has not been registered under a corresponding law (in the case of a birth outside Australia).</p>
			<p>8</p>	<p>The parents of a child are responsible for having the child's birth registered under this Act.</p> <p>If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered under this Act.</p>
			<p>9</p>	<p>A person has the birth of a child registered under this Act by signing and lodging with the registrar-general a birth registration statement that sets out the particulars that the registrar-general requires for the purpose of registering the birth.</p> <p>The registrar-general may accept a birth registration statement that:</p>

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				<ul style="list-style-type: none"> - is signed by only one of the parents, if satisfied that it is not practicable to obtain the signature of the other parent; or - does not set out the particulars required above, if satisfied that it is not practicable to obtain the missing particulars. <p>The registrar-general must not accept a birth registration statement from a person who is not responsible for having a child's birth registered under this Act unless the registrar-general is satisfied that:</p> <ul style="list-style-type: none"> - the person lodging the statement has knowledge of the particulars set out in the statement; and - neither of the child's parents is able or likely to lodge a birth registration statement. <p>The registrar-general must not refuse to accept a birth registration statement only because it is not lodged within 60 days after the birth.</p>
			10	<p>A person responsible for having the birth of a child registered must lodge a birth registration statement with the registrar-general within 60 days after the birth.</p> <p>NB: a penalty applies for non-compliance.</p>
			11	<p>The registrar-general must register a birth by making in the register an entry relating to the birth that includes the name of the child and the prescribed particulars.</p> <p>If not all the prescribed particulars are available to the registrar-</p>

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				general, the registrar-general may register a birth by including in the entry the prescribed particulars that are available.
			12	<p>The registrar-general must assign a name to a child if:</p> <p>the name stated in the birth registration statement is a prohibited name; or</p> <p>the birth registration statement is lodged by both parents of the child and they satisfy the registrar-general that they are unable to agree on the child's name.</p>
			13	The Magistrates Court may resolve a dispute between the parents of a child about a child's name as the court considers appropriate and order the registrar-general to register the child's name in a form specified in the order.
			14	<p>On registration of a child's birth, the registrar-general must not include information about the identity of a child's parent in the register unless:</p> <p>(a) the information is contained in a document lodged under section 5 (Notification of births) in relation to the child; or</p> <p>(b) the parents of the child apply for the inclusion of the information; or</p> <p>(c) a parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent is dead or cannot be found or for any other reason; or</p> <p>(d) a parent of the child applies for the inclusion of the</p>

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				<p>information and the registrar-general is satisfied that the other parent does not dispute the correctness of the information; or</p> <p>(e) the registrar-general is entitled under an Act or a law of a State, the Commonwealth or another Territory to make a presumption about the identity of a parent of the child; or</p> <p>(f) the inclusion of the information is authorised by regulation.</p>
			15	<p>The Supreme Court may, on the application of an interested person or on its own initiative, order:</p> <p>the registration of a birth; or</p> <p>the inclusion of information relating to a birth or a child's parent in the register.</p>
			16	<p>The registrar-general must include information about a child's parent in the register after registration of the child's birth if:</p> <p>(a) the parents of the child apply for the inclusion of the information; or</p> <p>(b) a parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent is dead or cannot join in the application because the other parent cannot be found or for any other reason; or</p> <p>(c) a parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent does not dispute the correctness of the information; or</p>

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				<p>(d) the Supreme Court orders the inclusion of the information; or</p> <p>(e) a court makes a finding that a particular person is a parent of the child; or</p> <p>(f) the registrar-general is entitled under an Act or a law of a State, the Commonwealth or another Territory to make a presumption about the identity of a parent of the child; or</p> <p>(g) the inclusion of the information is authorised by regulation.</p> <p>(3) On application by an interested person, the Supreme Court may order that the register be amended by:</p> <p>(a) omitting or adding specified information about a child's parentage; or</p> <p>(b) adding information that relates to the marriage, civil union or civil partnership of the child's parents.</p>
			16A	<p>If the registrar-general receives a sealed copy of a parentage order made under section 26 of the <i>Parentage Act 2004</i>, the registrar-general must register the order.</p> <p>The registrar-general must keep an index of registered parentage orders.</p> <p>The registrar-general must bring notice of Division 2.4 of this Act (substitute parent information) to anyone providing information to the registrar-general about the birth of a child about whom a parentage order has been made.</p>

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			16B	If the registrar-general receives a sealed copy of a parentage order made under section 26 of the <i>Parentage Act 2004</i> for a child whose birth is registered under this Act, the registrar-general must re-register the birth of the child by entering in the register, among other particulars, the substitute parent or parents of the child in whose favour the order was made.
			42	<p>A person may apply to the registrar-general for:</p> <ul style="list-style-type: none"> - access to the register; or - the provision from the register of the information stated in the application. <p>The registrar-general may give the applicant access to the register or give the applicant any of the stated information that is available if satisfied that:</p> <ul style="list-style-type: none"> - the applicant has an adequate reason for wanting the access or the information; and - the giving of the access or information is in accordance with the registrar-general's written statement of access policies (see section 46). <p>The access or information must be given subject to the conditions stated in the statement of access policies and may be given subject to any other conditions that are reasonable and necessary to protect the privacy of anyone to whom an entry in the register relates.</p>
			43	A person may apply to the registrar-general for a search of the

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				<p>register for any entry about a particular registrable event.</p> <p>The registrar-general may search the register for the entry if satisfied that the applicant has an adequate reason for wanting the information and the giving of the information is in accordance with the statement of policies.</p>
			44	<p>In providing the information extracted from the register, the registrar-general must, as far as practicable, protect a person to whom the entry in the register relates from unreasonable intrusion into his or her privacy.</p>
			Dictionary	<p>'Register' means the register of registrable events maintained under the Act.</p> <p>'Registrable event' means a birth, death, marriage, civil union, civil partnership, change of name or change of sex.</p>
	Parentage Act 2004	ACT	23 - Definitions	<p>'Substitute parent agreement' means a contract, agreement, arrangement or understanding under which:</p> <p>a woman agrees :</p> <ul style="list-style-type: none"> - that the woman will become, or attempt to become, pregnant; and - that a child born as a result of the pregnancy will be taken to be (whether by adoption, agreement or otherwise) the child of someone else; or <p>a woman who is pregnant agrees that a child born as a result of the pregnancy will be taken to be (whether by adoption, agreement or</p>

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				otherwise) the child of someone else.
			24	<p>Division 2.5 (parentage orders) applies to a child if:</p> <p>(a) the child was conceived as a result of a procedure carried out in the ACT; and</p> <p>(b) neither birth parent of the child is a genetic parent of the child; and</p> <p>(c) there is a substitute parent agreement, other than a commercial substitute parent agreement, under which 2 people (the 'substitute parents') have indicated their intention to apply for a parentage order about the child; and</p> <p>(d) at least one of the substitute parents is a genetic parent of the child; and</p> <p>(e) the substitute parents live in the ACT.</p>
			25	Either or both of the substitute parents may make an application to the Supreme Court for a parentage order about a child.
			26	<p>The Supreme Court must make a parentage order about the child if satisfied that:</p> <ul style="list-style-type: none"> - the making of the order is in the best interests of the child; and - both birth parents freely, and with a full understanding of what is involved, agree to the making of the order. <p>However, the Supreme Court may dispense with the requirement</p>

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				<p>under (b) above in relation to a birth parent if satisfied that:</p> <ul style="list-style-type: none"> - the birth parent is dead or incapacitated; or - the applicants cannot contact the birth parent after making reasonable inquiries.
			29	<p>If a parentage order is made about a child, the provisions of the <i>Adoption Act 1993</i> mentioned in the last bullet point in this paragraph (the 'applied provisions') apply in relation to the parentage order as if the parentage order were an order made under that Act for the adoption of the child and the child were an adopted child.</p> <p>For the application mentioned above:</p> <ul style="list-style-type: none"> - a reference in an applied provision to the adoptive parent/s is a reference to the substitute parent/s in whose favour the parentage order was made; and - a reference in an applied provision to the adopted child or adopted person is a reference to the child about whom the parentage order was made. <p>The applied provisions of the <i>Adoption Act 1993</i> are:</p> <ul style="list-style-type: none"> - section 43 (other than subsections (1)(c) and (2)) - section 44 - section 47

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				<ul style="list-style-type: none"> - section 48 - section 49 - section 60 (other than subsection (1)(a)) - section 62(3) - division 5.3 (other than sections 77, 78 and 79).
			47	If the Supreme Court makes a parentage declaration or parentage order, the registrar of the court must give a sealed copy of the declaration to the registrar-general within 28 days after the day on which the declaration or order is made.
	Adoption Act 1993	ACT	43	This section states that, in general, on the making of an adoption order, the adopted person becomes in law a child of the adoptive parents and the adoptive parents become in law the parents of the adopted person as if the adopted person has been born to the adoptive parents.
			58 - Definitions	<p>'associated person', in relation to an adoption, means:</p> <ul style="list-style-type: none"> (a) the adopted person; (b) an adoptive parent; (c) a birth parent or relative of the adopted person; or (d) a child or other descendant of the adopted person. <p>'identifying information', in relation to an adoption, means:</p>

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				<p>(a) a copy of, or an extract from, an entry in a register of births relating to the adopted person; or</p> <p>(b) information from which a birth parent, a birth relative or the adopted person may be identified (other than the information that consists of the address of a place of residence).</p>
			62	<p>If the director-general receives an application for information under Part 5 (access to information) and the director-general is satisfied that the applicant is a person who is entitled to access to and to apply for that information, the director-general must:</p> <ul style="list-style-type: none"> - give the information to the applicant; or - request the relevant authority to give the information to either the director-general or the applicant; or - make any reasonable inquiries in the circumstances of the case to endeavour to obtain the information for the applicant. <p>If the registrar-general receives an application for information under Part 5 of the Act and the registrar-general is satisfied that the applicant is a person who is entitled to access to and apply for that information, the registrar-general must arrange for a search to be made in the register of births under the <i>Births, Deaths and Marriages Registration Act 1997</i> and issue to the applicant a copy of, or an extract from, the relevant entry, or a notification of the result of the search.</p>
			66	An associated person is entitled to access to and to apply for identifying information about an adoption.

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			68	<p>An adoptive person who has not yet turned 18 is not entitled to identifying information unless approval has been obtained from each adoptive parent and each birth parent.</p> <p>NB An approval of a person is not required if the director-general or registrar-general (as the case requires) is satisfied that the person is dead or the location of the person is not known and could not with reasonable inquiries be ascertained.</p>
			69	<p>On receiving an application for identifying information or a notification from the registrar-general of an application for information in relation to the register of births, the director-general must, at the request of the applicant, on his or her behalf seek to obtain from each person whose approval is required approval in writing to the information being provided.</p>
			74	<p>When an adopted person who was born outside Australia and brought to Australia for adoption in Australia, reaches the age of 18, the director-general must, at the request of the adopted person, give the person a copy of his or her birth certificate or any other information that is available from the records of the appropriate authority in the person's country of origin.</p>
			75	<p>If a person would (under Division 5.3 identifying information) be entitled to identifying information with the approval in writing of another person and that other person has refused to give that approval, the person seeking the information may apply to the court for an order described below.</p> <p>The court may, if of the opinion that there are circumstances that justify the order, make an order declaring that the applicant is</p>

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				entitled access to and to apply for the identifying information specified in the order.
			77	<p>The Minister must establish and maintain a service to be known as the family information service. The director-general is responsible for the administration of the service.</p> <p>Among other things, the service is designed to receive applications for information under Part 5 (access to information) and to facilitate the provision of information to a person whose name is entered in the adoption information register maintained under section 78 below.</p>
			78	<p>The director-general must establish and maintain an adoption information register.</p> <p>The register must contain the names and addresses of adopted persons, birth parents of adopted persons, birth relatives of adopted persons and adoptive parents who have, in writing, requested the director-general to enter their names and addresses in the register.</p>
			104	<p>The registrar of the Supreme Court must send the following to the registrar-general:</p> <ul style="list-style-type: none"> (a) a memorandum of each adoption order; and (b) a copy of each order discharging an adoption order. <p>On receiving either a memorandum or copy of an order described above, the registrar-general must:</p>

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				<p>(a) register it, as prescribed, in the register of adoptions; and</p> <p>(b) if it relates to a person whose birth is registered in the register of births, make any alterations to, or entries in, that register that are prescribed.</p>