

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 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national</p>	<p>Family Law (Hague Convention on Intercountry Adoption) Regulations 1998</p>	<p>Cth</p>	<p>s6</p>	<p>This regulation made under the <i>Family Law Act 1975</i> (Cth) implements the Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption ('Intercountry Adoption Convention') in which the principles of the "best interests of the child" and other obligations under Article 21 are substantively entrenched. This regulation should also be read with the Commonwealth-State agreement for the implementation of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption which allocates different responsibilities for compliance with the Intercountry Adoption Convention to the Commonwealth and to the States.</p> <p>This section allows for the establishment of a Commonwealth Central Authority to discharge some of the duties which are imposed by the Intercountry Adoption Convention. The duties of the Commonwealth Central Authority do not include:</p> <p>(a) processing the day to day casework involved in a particular adoption; or</p> <p>(b) approving an application for the adoption of a child; or</p> <p>(c) giving consent to the adoption of a child; or</p> <p>(d) a function reserved, under the Commonwealth State</p>

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<p>adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>agreement, for a State or State Central Authority; or</p> <p>(e) accrediting a body for the Intercountry Adoption Convention.</p>
			ss8 and 9	<p>Section 8 allow for the designation by a State of a State Central Authority to discharge some of the duties which are imposed by the Intercountry Adoption Convention. The Commonwealth may also designate a person as State Central Authority under section 9.</p>
			s14	<p>This section deals with the court orders relating to the adoption of an Australian child into a country which is a 'Convention Country' for purposes of the Intercountry Adoption Convention. Section 14(3) provides that a Court may only make an order if:</p> <p>(a) the Central Authority of the [Intercountry Adoption] Convention country has agreed to the adoption of the child; and</p> <p>(b) the State Central Authority of the State in which the child habitually resides has agreed to the adoption of the child; and</p> <p>(c) the adoption is in the best interests of the child.</p>

2. New South Wales

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION - NEW SOUTH WALES

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<p>ARTICLE 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national</p>	Adoption Act 2000	NSW	Chapter 2	Chapter 2 sets out the governing principles to be taken into account in the administration of the Act.
			Chapter 3, Part 1 Sections 10 -12	<p>Adoption services may only be provided by the Director-General and an organisation accredited under Part 2 of the Act.</p> <p>A person may not provide adoption services in New South Wales unless that person is or is acting on behalf of an organisation that is accredited under Part 2 of the Act.</p> <p>The penalties for illegally providing adoption services are imprisonment, penalty fine or both.</p>
			Chapter 3, Part 2	<p>A charitable or non-profit organisation may apply to the Director-General in writing for accreditation as an adoption service provider (s12).</p> <p>Section 14 provides that in deciding an application for accreditation, the Director-General must take into account the qualifications, experience, character and number of persons taking part in the management, control and the activities of the organisation. The Director-General must refuse an application if the application is not suited to the providing the adoption services for which accreditation is sought.</p> <p>The Director-General may impose conditions on the adoption service provider relating for instance to the facilities</p>

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<p>adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>provided, the qualifications and experience of the service providers (s.17). The Director-General may at any time revoke or suspend or the accreditation of an adoption service provider.</p> <p>The Director-General must publish in the Gazette any notices of accreditation of an organisation as an adoption service provider (s.15) and must also publish notices of the revocation or suspension of any accreditations (s.20).</p> <p>A copy of the notice of accreditation must at all times be displayed in a prominent place at the principal office of the adoption service provider (s.16). <i>Failure to do results in penalty units.</i></p>
			Chapter 4, Part 1 Sections 22 -23	<p>Adoption orders and other orders made under this Act (including an order in respect of intercountry adoption) are to be heard and determined by the Supreme Court.</p> <p>The Court must not make an adoption order unless when the application is filed:</p> <p>(a) the child is present in the State; and</p> <p>(b) the applicant or each of the applicants resides or is domiciled in the State.</p>
				<p>An adoption order may be made in relation to a child who:</p> <p>(a) was less than 18 years of age on the date on which the application for the order was made, or</p>

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				(b) was 18 or more years of age on that date and was previously cared for by the application or applicants of the order.
			Sections 26, 27 and 28	<p>An application can be made by one person solely or jointly be a couple (s.26)</p> <p>'Couple' is defined in the Dictionary to mean 2 persons who are married to each other or who are de facto partners of each other (including persons whether of the same sex or different sex).</p> <p>A basic requirement under the Act is that the applicant or the applicants (as a couple) must be resident or domiciled in the State and that the person or persons must be of good repute and fit and proper to fulfil the responsibilities of a parent (ss. 27 and 28).</p> <p>Section 28(4) states that the Court must not make an adoption order in favour of a couple unless the couple have been living together for a continuous period of not less than 2 years immediately before the application for the adoption order.</p> <p>Section 27(3) states that the Court must not make an adoption order in favour of one person who is living with a spouse unless that spouse also consents in writing to the application for the adoption order.</p>
			Sections 27 and 28	The applicant must be 21 years old or more and 18 or more years older than the child. The Court has a discretions to make an order if the age requirements are not met.

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			Section 29	<p>The Court must not make an adoption order in favour of a relative a child unless:</p> <p>(a) specific consent has been given by the appropriate persons under s 53(b); and</p> <p>(b) the child has established a relationship of at least 2 years with the relative; and</p> <p>(c) the Court is satisfied that the making of an adoption order is clearly preferable in the best interest of the child to any other action that could be taken by law in relation to the child.</p>
			Section 30	<p>The Court must not make an adoption order in favour of a step parent of a child unless:</p> <p>(a) the child is at least 5 years old; and</p> <p>(b) the step parent has lived with the child and the child's birth or adoptive parent for a continuous period of not less than 2 years before the application is made; and</p> <p>(c) specific consent has been given by the appropriate persons under the Act; and</p> <p>(d) the Court is satisfied that the making of an adoption order is clearly preferable in the best interest of the child to any other action that could be taken by law in relation to the child.</p>

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			s.31	Adoption of non- citizen child
			Section 31	<p>In placing a child for adoption, the decision maker must take into account the culture, language and religion of the child and any disability on the principle that the child's given name, identity, language, cultural and religious ties should as far as possible be preserved.</p> <p>Without limiting the matters that may be taken into account, the decision maker must take into account whether a prospective adoptive parent of a different cultural heritage has demonstrated the following:</p> <ul style="list-style-type: none"> (a) the capacity to assist the child to develop a healthy and positive cultural identity (b) knowledge of or a willingness to learn about, and teach the child about, the child's cultural heritage, (c) a willingness to foster links with that heritage in the child's upbringing, (d) the capacity to help the child if the child encounters racism or discrimination in school or the wider community. <p>Special provisions apply to Aboriginal and Torres Strait Islander children as set out in Sections 33 - 40 of the Act.</p>
			Section 33	The Director-General or appropriate principal officer must ensure that the following are consulted about the placement of an Aboriginal child:

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				<p>(a) a person approved in accordance with section 195, or</p> <p>(b) a person nominated by the child’s parents, extended family or kinship group, as recognised by the Aboriginal community to which the child belongs, or by that community, with expertise in relation to the adoption or substitute care of Aboriginal children.</p> <p>In addition, the Director-General or appropriate principal officer must ensure that the placement of the child is made in consultation with a local, community-based and relevant Aboriginal organisation.</p>
			Section 34	The Director-General must make reasonable enquiries to ascertain whether a child to be placed for adoption is an Aboriginal child.
			Section 35	<p>The general principle is that that Aboriginal people should be given the opportunity to participate with as much self-determination as possible in decisions relating to the placement for adoption of Aboriginal children.</p> <p>The Aboriginal child placement principles are as follows:</p> <p>(a) The first preference for placement of an Aboriginal child is for the child to be placed for adoption with a prospective adoptive parent or parents belonging to the Aboriginal community, or one of the communities, to which the birth parent or birth parents of the child belongs.</p> <p>(b) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a),</p>

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				<p>the child is to be placed with a prospective adoptive parent or parents from another Aboriginal community.</p> <p>(c) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a) or (b), the child is to be placed with a non-Aboriginal prospective adoptive parent or parents.</p> <p>An Aboriginal child is not to be placed with a non-Aboriginal prospective adoptive parent unless the Court is satisfied that the prospective adoptive parent:</p> <p>(a) has the capacity to assist the child to develop a healthy and positive cultural identity; and</p> <p>(b) has knowledge of or is willing to learn about, and teach the child about, the child's Aboriginal heritage and to foster links with that heritage in the child's upbringing; and</p> <p>(c) has the capacity to help the child if the child encounters racism or discrimination in the wider community;</p> <p>and that the Aboriginal child placement principles have been properly applied.</p>
			Section 36	<p>An Aboriginal child is not to be placed for adoption unless the Director-General is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to any other action that could be taken by law in relation to the care of the child.</p>

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			Section 37	<p>The Director-General or appropriate principal officer must ensure that the following are consulted about the placement of an Torres Strait Islander child:</p> <p>(a) a person approved in accordance with section 196, or</p> <p>(b) a person nominated by the child’s parents, extended family or kinship group, as recognised by the Torres Strait Islander community to which the child belongs, or by that community, with expertise in relation to the adoption or substitute care of Torres Strait Islander children.</p> <p>In addition, the Director-General or appropriate principal officer must ensure that the placement of the child is made in consultation with a local, community-based and relevant Torres Strait Islander organisation.</p> <p>A person that is approved under section 195 (Aboriginal) or section 196 (Torres Strait Islander) is one that has been approved by the Director-General to provide advice and assistance to Aboriginal/ Torres Strait Islander families or kinship groups in relation to care options for Aboriginal children.</p>
			Section 38	<p>The Director-General must make reasonable enquiries to ascertain whether a child to be placed for adoption is an Aboriginal child.</p>
			Section 39	<p>The general principle is that that Torres Strait Islander people should be given the opportunity to participate with as much self-determination as possible in decisions relating to the</p>

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				<p>placement for adoption of Torres Strait Islander children.</p> <p>The Torres Strait Islander child placement principles are as follows:</p> <p>(a) The first preference for placement of a Torres Strait Islander child is for the child to be placed for adoption with a prospective adoptive parent or parents within the child's extended family.</p> <p>(b) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a), the child is to be placed with a prospective adoptive parent or parents within the community, or one of the communities, to which the birth parent or birth parents of the child belongs.</p> <p>(c) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a) or (b), the child is to be placed with a prospective adoptive parent or parents from another Torres Strait Islander community.</p> <p>(d) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a) (b) or (c), the child is to be placed with non-Torres Strait Islander prospective adoptive parent or parents.</p> <p>A Torres Strait Islander child is not to be placed with a non-Torres Strait Islander prospective adoptive parent unless the Court is satisfied that the prospective adoptive parent:</p> <p>(a) has the capacity to assist the child to develop a healthy</p>

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				<p>and positive cultural identity, and</p> <p>(b) has knowledge of or is willing to learn about, and teach the child about, the child's Torres Strait Islander heritage and to foster links with that heritage in the child's upbringing, and</p> <p>(c) has the capacity to help the child if the child encounters racism or discrimination in the wider community,</p> <p>and that the Torres Strait Islander child placement principles have been properly applied.</p>
			Section 40	<p>A child who is resident or domiciled in the State is not to be adopted in a place outside Australia unless the Director-General has:</p> <p>(a) determined that the consent necessary for the adoption has been given in accordance with this Act (or dispensed with), and</p> <p>(b) determined that a suitable family to adopt or otherwise care for the child cannot be found in Australia, and</p> <p>(c) if satisfied that the child should be adopted outside Australia, prepared a report to that effect.</p> <p>The report is to include information about the child's identity, adaptability, background, social environment, family history, medical history of the child and the child's family and any special needs of the child and is to indicate that the consents required under this Act have been obtained.</p>

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			Section 45	<p>The Director-General may make regulation with respect to the assessment of the suitability of persons that may adopt a child under the Act and in respect of the keeping a register of such persons that have been approved.</p> <p>The Director-General or the appropriate principal officer may require that persons provide finger prints as part of a criminal records check.</p>
			Section 45A	<p>Before any adoption order is made, the background information relating to the application that has been obtained by the relevant authorities, is to be provided to the birth parents at their request.</p>
			Section 45B	<p>A general consent of the birth parents of a child may express the parent's wishes as to the preferred background, beliefs, or domestic relationship of any prospective adoptive parents of the child.</p> <p>Nothing in the <i>Anti-Discrimination Act 1977</i> prevents the Director-General or a principal officer of an adoption service provider from (consistently with the best interests of the child) identifying adoptive parents who reflect those wishes.</p>
			Sections 46- 47	<p>Before making an order for the adoption of a child, the parties may agree an 'adoption plan'.</p> <p>An adoption plan is a written agreement made by the parties to the adoption order that includes provisions relating to:</p> <ul style="list-style-type: none"> • the child's medical background or condition,

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				<ul style="list-style-type: none"> • the child’s development and important events in the child’s life • the means and nature of contact between the parties and the child, and • any other matters relating to the adoption of the child. Where an Aboriginal or Torres Strait Islander child is the subject of the adoption, the adoption plan must, after consultation with a local community-based Aboriginal or Torres Strait Islander organisation, make provision for: <ul style="list-style-type: none"> • setting out ways in which the child is to be assisted to develop a healthy and positive cultural identity and for links with that heritage to be fostered, and • the giving of certain financial and other assistance as referred to in section 201.
			Sections 48- 50	<p>The adoption plan may be registered at Court and the Court may register the plan if it is satisfied that:</p> <ul style="list-style-type: none"> • the plan does not contravene the adoption principles, and • the parties to the adoption understand the provisions of the plan and have freely entered into it, and • the provisions of the plan are in the child’s best interests and is proper in the circumstances. A plan registered at Court takes effect as if it were part of the adoption order if granted. <p>If the adoption plan has not been registered at Court, a copy</p>

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				of the plan must be accompany the application for an adoption order.
			Section 51	<p>Adoption plans may be reviewed on application of one or more of the parties to the plan. The Court may allow each party to make submissions concerning the application to review.</p> <p>The Court may make such changes as it considers appropriate, or confirm the plan or revoke it altogether. The Court may only vary or revoke the plan if it is satisfied that it is in the best interests of the child and proper to do so in the circumstances.</p>
			Section 52	<p>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> <ul style="list-style-type: none"> • in the case of a child who has not been previously adopted by: <ul style="list-style-type: none"> (i) each parent of the child; and (ii) any person who has parental responsibility for the child, or • 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.
			Section 53	A parent of, or person who has parental responsibility for, a

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				<p>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: <ul style="list-style-type: none"> (i) a specified adoptive parent who is a relative of the child, or (ii) 2 specified adoptive persons, one of whom is a parent or relative of the child, or (iii) a specified adoptive parent who is step parent of the child, or (iv) a specified adoptive parent who is an authorised carer who has had care responsibility for the child for 2 years or more.
			Section 54	<p>No consent is required where:</p> <ul style="list-style-type: none"> • the requirement for consent is dispensed with by the Court [• the parent whose consent would otherwise be required under s.52 is a proposed adoptive parent. • the child gives sole consent to his or her adoption in

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				<p>accordance with s.54(2) (see below for details).</p> <ul style="list-style-type: none"> the child is 18 or more years old.
			Section 54(2) and (3)	<p>A child who is 12 years or more 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 if that child has been cared for the proposed adoptive parent for at least 2 years.</p> <p>In such cases, the Court must not make an adoption order unless:</p> <ul style="list-style-type: none"> it is satisfied that at least 14 days' notice of the application order 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.
			Section 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:</p> <ul style="list-style-type: none"> 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 (as required by section 61), and the child consents to his or her adoption by the prospective adoptive parent or parents or the Court dispenses with the

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				<p>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>
			Section 56	<p>Where the consent to the adoption of the child's birth mother has been given (or person who has parental responsibility) but not the consent of the child's birth father and the Director-General or appropriate officer know after reasonable enquiry the name and address of the person believed to be the birth father, the birth father must</p> <ul style="list-style-type: none"> • be given notice that the child's birth mother has consented; and • be advised of the legal process by which he can establish paternity and his rights as a parent in relation to the adoption of the child.
			Section 57	<p>This section defines 'counsellor', 'informed consent' and 'mandatory written information'.</p> <p>'counsellor' means a person of a class or description, and having the qualifications and functions, prescribed by the regulations.</p> <p>'informed consent' means consent given after a person has been given the mandatory written information.</p> <p>'mandatory written information', in relation to the</p>

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				<p>adoption of a child, means written information on the following:</p> <ul style="list-style-type: none"> • the alternatives to the adoption, • financial and other support services available whether or not the child is relinquished for adoption, • possible emotional effects, both short and long term, of relinquishing the child for adoption, • the legal process of adoption (including the consents required and effect and way of revoking consent, the selection procedure, the role of adoption plans, the role of the Court and review and appeals procedure) and the legal consequences of each stage in the process, • the duties and responsibilities of the Director-General and principal officer in relation to the placement of the child, • the rights and responsibilities of other parties to the adoption, including access to information about, or contact with, the other parties to the adoption, • any other matter prescribed by the regulations.
			Section 58	<p>Consent is not effective unless it is informed consent and given in accordance with the Act.</p> <p>Section 53(2) highlights the circumstances in which consent is effective. Consent is not effective if it was obtained by fraud, duress or other improper means or the person giving or</p>

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				<p>purporting to give consent was not in a fit condition to give that consent.</p> <p>Consent is also not effective if a child (who had previously consented to his/ her adoption) revokes it before an adoption order is made (s. 73).</p> <p>Consent given by a birth parent who is less than 18 years old may not be effective if it appears to the Court that the birth parent did not have the benefit of independent legal advice before the instrument of consent was signed by the birth parent.</p> <p>Consent given in another State under the law of the other State is an effective consent for the purposes of the Act.</p>
			Section 59	<p>The Director-General or appropriate officer must ensure that a person must ensure that a person whose consent to an adoption is needed before an adoption order can be made is given the mandatory written information before the person consents or refuses consent to the adoption.</p> <p>In the case of an adoption of a child who is under the parental responsibility of the Minister administering the <i>Children and Young Persons (Care and Protection) Act 1998</i>, this section does not require the mandatory written information to be given to the Minister or a delegate of the Minister who can consent to the adoption.</p>
			Section 60	Consent to the adoption of a child cannot be given unless it is given:

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				<ul style="list-style-type: none"> • at least 30 days after the child is born; and • at least 14 days after the person giving the consent is given a copy of the instrument of consent and the mandatory written information (if required)
			Section 61	<p>Consent is to be given by an instrument ('an instrument of consent') that is in a form that contains the information prescribed by the regulations.</p> <p>A separate instrument of consent must be signed by the child and by each other person whose consent is required by this Act.</p> <p>Before the instrument is signed, a counsellor must sign a statement on it certifying that:</p> <ul style="list-style-type: none"> • the child or other person giving the consent has been counselled by the counsellor, and • that the counsellor is of the opinion that the child or other person understands the effect of signing the instrument.
			Section 62	<p>The signing of the instrument of consent must be witnessed, in accordance with the regulations, by a person other than the counsellor and who is independent of the counsellor.</p> <p>Before witnessing the signing of the instrument of consent by a child or other person, the witness is to sign a statement on it certifying that he or she is not aware of any mental, emotional or physical unfitness of that person to give</p>

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				<p>consent.</p> <p>The witness must be a person of a class or description prescribed by the regulations.</p>
			Section 63	<p>A child or other person giving consent must be counselled in accordance with this section within the period prescribed by the regulations before he or she signs the instrument of consent to an adoption.</p> <p>A person is counselled in accordance with this section if a counsellor:</p> <ul style="list-style-type: none"> • accurately explains to the person, in a way that the counsellor thinks will be understood by the person: <ul style="list-style-type: none"> (i) the legal effect of signing the instrument of consent and the procedure for revoking consent; and (ii) the effect of the mandatory written information, and • counsels the person on the emotional effects of the adoption and alternatives to adoption (including, in the case of birth parents, the feasibility of keeping the child). <p>This section does not require the Minister administering the <i>Children and Young Persons (Care and Protection) Act 1998</i> or any delegate of the Minister to be counselled before giving consent to the adoption of a child who is under the parental responsibility of the Minister.</p>

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			Sections 64-65	<p>In relation to Aboriginal and Torres Strait Islander children.</p> <p>Before a person gives consent to the adoption of an Aboriginal/ Torres Strait Islander child:</p> <ul style="list-style-type: none"> • he or she is to be given adoption counselling by a person approved in accordance with section 195 or 196, or • if he or she is offered, but refuses, adoption counselling by such a person he or she must: <ul style="list-style-type: none"> (i) be provided by the Director-General or appropriate principal officer with written information on Aboriginal/ Torres Strait Islander customs and culture and any other matters the Director-General or principal officer considers would have been raised by the person; and (ii) sign an acknowledgement that he or she has read (or, if he or she cannot read, had been read to) and understood the information. <p>A person who refuses adoption counselling cannot consent to the adoption until at least 7 days after being given the information referred to above.</p> <p>'adoption counselling' means consultation that includes consideration of the possibility of a child being cared for in accordance with Aboriginal/ Torres Strait Islander (as the case may be) customs and culture.</p> <p>A counsellor that is approved under section 195 (Aboriginal) or section 196 (Torres Strait Islander) is one that has been</p>

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				approved by the Director-General to provide advice and assistance to Aboriginal/ Torres Strait Islander families or kinship groups in relation to care options for Aboriginal children.
			Section 66	A requirement for the consent of a child or any other person to the child's adoption under this Act can be dispensed with if the Court makes an order under this Division dispensing with the requirement (a ' consent dispense order ').
			Section 67	<p>The Court may make a consent dispense order dispensing with the requirement for consent of a person to a child's adoption (other than the child) if the Court is satisfied that:</p> <ul style="list-style-type: none"> • the person cannot, after reasonable inquiry, be found or identified, • the person is in such a physical or mental condition as not to be capable of properly considering the question of whether he or she should give consent, or • if the person is a parent of, or person who has parental responsibility for, the child - there is serious cause for concern for the welfare of the child and it is in the best interests of the child to override the wishes of the parent or person who has parental responsibility, or • if an application has been made to the Court for the adoption of the child by one or more persons who are authorised carers for the child: <p>(i) the child has established a stable relationship with those</p>

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				<p>carers, and</p> <p>(ii) the adoption of the child by those carers will promote the child's welfare, and</p> <p>(iii) in the case of an Aboriginal child, alternatives to placement for adoption have been considered in accordance with section 36.</p> <p>The Court must not make such a consent dispense order unless satisfied that to do so is in the best interests of the child.</p>
			Section 68	<p>Any of the following persons may apply to the Court for a consent dispense order:</p> <ul style="list-style-type: none"> • the Director-General, • the appropriate principal officer, • if an application has been made to the Court for the adoption of the child by the mother, the father or a relative of the child (whether alone or jointly with another person) - the applicant or applicants, • with the consent of the Director-General - the applicant or applicants for the adoption of the child.
			Section 69	<p>The Court may make a consent dispense order dispensing with the requirement for consent to his or her adoption to be given by a child who is 12 or more but less than 18 years of age if the Court is satisfied that the child is in such a physical</p>

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				<p>or mental condition as not to be capable of properly considering the question of whether he or she should give consent.</p> <p>An order under subsection (1) may be made on the Court's own initiative or on application by any person.</p> <p>The Court must not make a consent dispense order dispensing with the requirement for consent of a child who is 18 or more years of age in any circumstances.</p>
			Section 70	<p>A consent dispense order may be made:</p> <p>(a) before an application for an adoption order has been made in relation to a child, or</p> <p>(b) in conjunction with an adoption order in relation to a child.</p>
			Section 71	<p>A consent dispense order in relation to the adoption of a child made before an application for an adoption order has been made may be revoked by the Court at any time before the making of the adoption order.</p> <p>The consent dispense order may be revoked on the Court's own initiative or on the application of:</p> <ul style="list-style-type: none"> • the Director-General or of the person whose consent was dispensed with, or • if the order was made on the application of a principal

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				officer - the principal officer.
			Section 72	<p>The Court must not make a consent dispense order on the application of any person unless notice of the application has been given to the person whose consent is sought to be dispensed with at least 14 days before the order is made (72.1)</p> <p>Subsection (1) does not apply if:</p> <ul style="list-style-type: none"> • the person cannot, after reasonable inquiry, be found or identified, or • the person is in such a physical or mental condition as not to be capable of properly considering the question of whether he or she should give consent and his or her physical or mental health would, in the opinion of the Court, be detrimentally affected if he or she were to receive notice of the application, or • the Court considers that in the particular circumstances of the case it is desirable to make an order without notice of the

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				<p>application having been given.</p> <p>The Court must not revoke any consent dispense order on application of a person unless not less than 14 days' notice of the application has been given:</p> <ul style="list-style-type: none"> • in the case of an application for revocation made by a person other than the Director-General - to the Director-General, and • in the case of an application for revocation made by a person other than the principal officer who applied for the consent dispense order - to the principal officer, or • if an application has been made to the Court for the adoption of the child by the mother, the father or a relative of the child (whether alone or jointly with another person) - to the applicant or applicants.
			Section 73	<p>A child who has consented to his or her adoption may revoke his or her consent by notice in writing given to the nominated officer at any time before the adoption order is made (s 73.1)</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 ('the revocation period').</p> <p>Consent cannot be revoked under s 73.2 after the end of the revocation period.</p>

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				<p>As soon as practicable after receiving a notice under this section, the nominated officer is to give notice of the revocation:</p> <ul style="list-style-type: none"> • to the Director-General, and • if it appears to the nominated officer that the consent concerned was given to a principal officer - to the principal officer, and • if an application has been made to the Court for the adoption of the child by the mother, the father or a relative of the child (whether alone or jointly with another person) - to the applicant or applicants. <p>If the Director-General ceases to have parental responsibility for a child under section 79 (1) (d), any consent to the adoption of the child given for the purposes of this Act is taken to be revoked.</p> <p>If the Director-General ceases to have parental responsibility for a child under section 79 (1) (d), the Director-General is to give notice to: the nominated officer, and if the consent was given to a principal officer - the principal officer.</p>
			Section 87	<p>The Court may make an adoption order only on application made by:</p> <ul style="list-style-type: none"> • 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

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				<p>the prospective adoptive parent or parents, or</p> <ul style="list-style-type: none"> • a child who is 18 or more years of age for his or her adoption. <p>Despite subsection 87.(1) (a), the consent of the Director-General to an application for an adoption order is not required:</p> <ul style="list-style-type: none"> • if the applicant is a step parent or relative of the child, or • if the application relates to an intercountry adoption.
			Section 88	<p>The Court may not make an adoption order unless at least 14 days' notice of the application for the order (containing the particulars, if any, prescribed by the regulations) has been given:</p> <ul style="list-style-type: none"> • to any person whose consent to the adoption of the child concerned is required under this Act and has not been given (or the requirement for which has been dispensed with by the Court), and • to any person (not being a person whose consent is so required) with whom the child resides or who has parental responsibility for the child. <p>The notice must not specify the name of, or identify, any applicant.</p> <p>The Court may dispense with the giving of the notice.</p>

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				If it appears to the Court to be necessary in the interests of justice so to do, the Court may direct that notice of an application for an adoption order be given to any specified person.
			Section 89	<p>The Court must not make an adoption order until:</p> <ul style="list-style-type: none"> • the revocation period for each consent given by an adult to the adoption has expired, and • if the child to be adopted has consented to the adoption - a period of 30 days, beginning on the day on which the instrument of consent to the adoption was signed, has expired.
			Section 90	<p>The Court must not make an adoption order in relation to a child unless the Court is satisfied:</p> <ul style="list-style-type: none"> • that the best interests of the child will be promoted by the adoption, and • 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 [Note Sections 127–129 contain provisions about ascertainment of the wishes of a child by the Court] • 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 [Note. See Part 3 of this

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				<p><i>Chapter.]</i></p> <ul style="list-style-type: none"> • 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 religious ties have been taken into account in the making of any adoption plan in relation to the adoption. <p>The Court may not make an adoption order 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.</p> <p>The Court may not make an adoption order unless it considers that the making of the order would be clearly</p>

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				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.
			Section 91	<p>The Court may not make an order for the adoption of a child under 18 years of age unless a report in writing concerning the proposed adoption has been provided to the Court by the applicant.</p> <p>The report is to be accepted by the Court only if it has been prepared by the Director-General or an authorised person.</p> <p>In this section, an 'authorised person' means any of the following:</p> <ul style="list-style-type: none"> • an approved assessor, • the principal officer of an accredited adoption service provider (or delegate), • the principal officer of a designated agency (or delegate). <p>However, the Court is not to require the Director-General to make a report unless the Court considers that the Director-General should report on the case because of:</p> <ul style="list-style-type: none"> • particular concerns about the safety, welfare or well-being of the child concerned, or • serious concerns about the reliability or independence of a report made by an authorised person concerning the case, or

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				<ul style="list-style-type: none"> • other exceptional circumstances.
			Section 92	<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>
			Section 93	<p>In this section 93:</p> <p>'concerned person' means the Attorney General, or any party to an adoption.</p> <p>A concerned person may apply to the Court for an order discharging an adoption order (a 'discharge order').</p> <p>The Court is to give each concerned person (other than the applicant for the discharge order) notice of the application.</p> <p>The Court may make a discharge order if it is satisfied that:</p> <ul style="list-style-type: none"> • the adoption order, or any consent to adoption, was obtained by fraud, duress or other improper means, or • there is some other exceptional reason why the adoption order should be discharged. <p>The Court must not make a discharge order if it appears to the Court that:</p>

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				<ul style="list-style-type: none"> • the making of the order would be prejudicial to the best interests of the child, or • if the application for the order is made by the child - the application is motivated by emotional or other considerations that do not affect the welfare of the child arising out of a relationship formed because of the child's access to information or contact with a person under Chapter 8 (Adoption information). <p>If the Court makes a discharge order respecting a general consent, that consent remains effective for the purpose of a further application for an adoption order in relation to the same child, unless the Court orders otherwise.</p> <p>If the Court makes a discharge order, it may, at the same time or subsequently, make such consequential or ancillary orders as it thinks necessary in the interests of justice or to promote the best interests of the child</p> <p>On the making of a discharge order, but subject to any order made under subsection (6) and to section 95 (4), the rights, privileges, duties, liabilities and relationships under the law of New South Wales of the child and of all other persons are to be the same as if the adoption order had not been made, but without prejudice to:</p> <ul style="list-style-type: none"> • anything lawfully done, or • the consequences of anything unlawfully done, or • any proprietary right or interest that became vested in any


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				<p>person,</p> <ul style="list-style-type: none"> • while the adoption order was in force.
			Section 94	The Court may require the Director-General to investigate the circumstances of any application for a discharge order and report to it.
			Chapter 5	<p>Chapter 5 deals with the recognition of adoptions in other States and Territories. Generally, s 102 provides that an adoption order which has been made (and not rescinded) in another State in accordance with the laws of the State will be treated as having the same effect as an adoption order made under this Act.</p> <p>Chapter 5 also provides 3 ways of recognising intercountry adoptions i.e.</p> <ol style="list-style-type: none"> 1. Hague Convention of Intercountry Adoption: ss 106 - 112 contain provision relating to the recognition of an adoption where the prospective parents are habitually resident in a Convention country and they seek to adopt a child resident in NSW. There are also provisions for parents who are resident in NSW who wish to adopt a child from a Convention country. Refer to Schedule 1 of the Act for articles of the Convention and the list of Convention countries. 2. Bi-lateral Agreement : ss 114 -115 deals with the recognition of adoptions by a person/s who are habitually resident in NSW of a child who is habitually resident in a prescribed overseas jurisdiction.

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				3. Recognition of other overseas adoption: ss 116 -117 deals with recognition of adoptions involving parents or children who are not resident in Convention countries or prescribed overseas jurisdictions.
			Section 127, 128	<p>In proceedings before it, the Court is to take into account any wishes and feelings of the child (considered in the light of the child's age and understanding) that are expressed by the child. [Note. <i>On participation generally of the child in decisions about his or her adoption see section 9.</i>]</p> <p>The Court may direct that a child be provided with such counselling as the Court considers appropriate.</p> <p>The Court may inform itself of wishes expressed by the child:</p> <ul style="list-style-type: none"> • by having regard to anything contained in a report made to the Court by the Director-General or the appropriate principal officer, or • subject to rules of court, by such other means as the Court considers appropriate. <p>Nothing in this Act requires the Court or any person to require a child to express his or her wishes in relation to any matter.</p>
			Chapter 9 (ss 176 -188)	<p>Chapter 9 details the offences under the Act.</p> <p>In this Chapter:</p> <p>'prohibited adoption advertising' means an advertisement,</p>

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				<p>news item or other matter indicating (whether or not in relation to a particular child, born or unborn, and whether the child is from Australia or a country outside Australia) that:</p> <ul style="list-style-type: none"> • a parent of, or person who has parental responsibility for, a child wishes to have the child adopted, or • a person wishes to adopt a child, or • a person is willing to make arrangements with a view to the adoption of a child, or • a child or children are available for adoption. <p>'publish' means disseminate, exhibit, provide or communicate by oral, visual, written, electronic or other means (for example, by way of newspaper, radio, television or through the use of the Internet, subscription TV or other on-line communications system), and includes cause to be published.</p>
			Section 177	<p>A person who (whether before or after the birth of the child concerned) makes, gives or receives, or agrees to make, give or receive, a payment or reward for or in consideration of or in relation to:</p> <ul style="list-style-type: none"> • the adoption or proposed adoption of a child, or • the giving of consent, or the signing of an instrument of consent, to the adoption of a child, or


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				<ul style="list-style-type: none"> • conducting an adoption service in relation to a child, is guilty of an offence against this Act. Maximum penalty: 25 penalty units or imprisonment for 12 months, or both. <p>A person who is resident or domiciled in this State who:</p> <ul style="list-style-type: none"> • makes any payment or gives any reward of any kind to a birth parent for relinquishing a child adopted from outside Australia or for consenting to an adoption under this Act, or • gives or takes any improper financial gain in relation to an adoption, <p>is guilty of an offence. Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p> <p>This section does not apply to or in relation to:</p> <ul style="list-style-type: none"> • any charge made by the Director-General or an accredited adoption service provider for providing adoption services under this Act, or • a payment or reward in connection with an adoption or proposed adoption under the law of another State if the making of the payment or the giving of the reward, or the agreeing to make the payment or give the reward, would have been lawful if it had taken place in that other State, or • any payment or reward, or class of payment or reward, prescribed by the regulations.

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				<p>For the purposes of this section, the giving or taking of any thing in relation to an adoption is not for improper financial gain if the transactions concerned relate to expenses (including legal expenses) reasonably incurred or for reasonable remuneration for work done or for care of the child in the period between the appropriate authorities agreeing that the adoption should proceed and adoption of the child.</p>
			Section 178	<p>A person must not publish any prohibited adoption advertising.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p> <p>A person must not publish any photograph of a child (whether from Australia or a country outside Australia) together with any prohibited adoption advertising relating to the child.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p> <p>This section extends to the publication of matter in a country outside Australia, by a person resident or domiciled in the State, of the person's wish to adopt, or willingness to make arrangements for the adoption, of a child from that country in the State.</p> <p>This section does not apply in relation to publication of any advertisement, news item or other matter approved by the</p>


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				Director-General.
			Section 179	<p>Making available or supplying prohibited adoption advertising on on-line service </p> <p>In this section:</p> <p>'access' has the same meaning as it has in the Commonwealth Act.</p> <p>'Commonwealth Act' means the <i>Broadcasting Services Act 1992</i> of the Commonwealth.</p> <p>'Internet content' has the same meaning as it has in the Commonwealth Act.</p> <p>'on-line service' means an Internet carriage service within the meaning of the Commonwealth Act and includes a bulletin board.</p> <p>A person must not, by means of an on-line service, make available, or supply, to another person prohibited adoption advertising:</p> <ul style="list-style-type: none"> • knowing that it is prohibited adoption advertising, or • being reckless as to whether or not it is prohibited adoption advertising. <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p>


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				<p>This section applies to an on-line service other than an on-line service, or on-line service of a class, prescribed by the regulations.</p> <p>Nothing in this section makes it an offence to supply prohibited adoption advertising by means of an on-line service to any person, or class of persons, prescribed by the regulations.</p> <p>A person is not guilty of an offence under this section by reason only of the person:</p> <ul style="list-style-type: none"> • owning, or having the control and management of the operation of, an on-line service, or • facilitating access to or from an on-line service by means of transmission, down loading, intermediate storage, access software or similar capabilities. <p>A person is reckless as to whether matter is prohibited adoption advertising:</p> <ul style="list-style-type: none"> • if the person is aware of a substantial risk that the matter is prohibited adoption advertising, and • that having regard to the circumstances known to the person, it is unjustifiable to take the risk. <p>The question of whether taking a risk is unjustifiable is one of fact.</p>

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			Section 180	<p>A person must not publish material that identifies, or is reasonably likely to identify, a person as a person affected by an adoption application. Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p> <p>For the purposes of this section, each of the following persons is a 'person affected' by an adopted application:</p> <ul style="list-style-type: none"> • a child in relation to whom an adoption application is made, • a person who makes an adoption application, • the mother and father of the child in relation to whom an adoption application is made, and any other person who has parental responsibility for the child when the adoption application is made. <p>This section does not prohibit:</p> <ul style="list-style-type: none"> • the publication of any material with the authority of the Court under section 180A, or • the publication of an official report of proceedings in the Court that includes the name of any person the publication of which would otherwise be prohibited by this section. <p>(4) This section does not prohibit the publication of any material after an adoption application and any proceedings in the Court with respect to the application have been finally disposed of:</p>

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				<p>(a) if the person identified (or reasonably likely to be identified) as a person affected by the adoption application consents to being identified, and</p> <p>(b) the material does not identify (and is not reasonably likely to identify) any person affected by the adoption application who does not consent to being identified.</p> <p>(5) In subsection (4), a reference to the consent of a person affected by an adoption application is, if that person is a child less than 18 years of age, a reference to the consent of the person who has parental responsibility for the child.</p> <p>(6) In this section:</p> <p>'adoption application' means an application under this Act or under a law of another State for an adoption order.</p> <p>180A Court authorisation of publication of identifying material </p> <p>(1) The Court may, during any proceedings with respect to an adoption application, by order, authorise the publication of material that identifies, or is reasonably likely to identify, a person affected by the adoption application, other than material identifying birth parents, if it is satisfied that:</p> <p>(a) each person affected by the adoption application consents to the publication (other than a child in relation to whom the adoption application is made who is under 18 years of age), and</p>

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				<p>(b) it is appropriate in the circumstances of the case to do so.</p> <p>(2) If a child in relation to whom the adoption application is made is 12 or more years of age and is capable of giving consent, the Court must not authorise the publication of the material unless the child also consents to the publication.</p> <p>(3) The Court may dispense with the consent of a person affected by an adoption application if that person is no longer alive, or cannot, after reasonable inquiry, be found or identified, or if there is, in the opinion of the Court, any other sufficient reason to dispense with their consent.</p> <p>(4) The Director-General is entitled to appear and be heard at any proceedings the purpose of which is to determine an application for an order of the Court under this section.</p> <p>(5) The Court is not to make an order authorising publication of material under this section unless satisfied that the Director-General has been given reasonable notice of the application for authorisation.</p> <p>(6) In this section:</p> <p>'adoption application' has the meaning given by section 180.</p> <p>'material identifying birth parents' means any material that identifies, or is reasonably likely to identify, a person as a person who, when an adoption application is made, is the mother or father of the child to whom the adoption application relates or a person who has parental responsibility</p>

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				<p>for the child.</p> <p>'person affected' by an adoption application has the meaning given by section 180.</p> <p>181 False statements </p> <p>(cf AC Act s 54, AI Act s 38)</p> <p>A person who makes any statement (whether orally or in writing) that the person knows to be false for the purposes of or in connection with:</p> <ul style="list-style-type: none"> (a) a proposed adoption or any other matter under this Act, or (b) an application for the supply of adoption information or an authority to supply adoption information under Chapter 8, or (c) the lodging of a contact veto under Chapter 8, or (d) an application for entry of the person's name in the Reunion and Information Register under Chapter 8, or (e) any other request under this Act, <p>is guilty of an offence.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p>


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				<p>182 Impersonation </p> <p>(cf AC Act s 55, AI Act s 39)</p> <p>(1) A person who impersonates an adopted person, birth parent, adoptive parent, relative or other person having an interest in an adopted person in connection with any matter under this Act is guilty of an offence.</p> <p>(2) Without limiting subsection (1), a person who impersonates or falsely represents himself or herself to be a person whose consent to the adoption of a child is required by this Act or by the law of another State is guilty of an offence.</p> <p>(3) A person who impersonates a person engaged in the administration or execution of this Act is guilty of an offence.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p>
			Section 183	<p>A person is guilty of an offence if he or she presents, or causes to be presented, to the Court in connection with an application for an order for the adoption, or recognition of the adoption, of a child under this Act a document:</p> <ul style="list-style-type: none"> • purporting to be an adoption document that the person knows is forged, or • that bears any signature or certification that was obtained by fraud or duress. <p>Maximum penalty: 25 penalty units or imprisonment for 12</p>

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				<p>months, or both.</p> <p>In this section:</p> <p>'adoption document' means:</p> <ul style="list-style-type: none"> • an instrument of consent, or revocation of consent, to an adoption, or • an adoption compliance certificate, or • an order for the adoption of a child made outside Australia.
			Section 184	<p>A person who uses or threatens to use any force or restraint or does or threatens to do any injury, or causes or threatens to cause any detriment of any kind to, or exerts any other undue influence on, a parent of, or person who has parental responsibility for, a child with a view:</p> <ul style="list-style-type: none"> • to inducing that parent or person who has parental responsibility to offer or refrain from offering the child for adoption under this Act, or • to influencing the parent or person who has parental responsibility in the expression of any wishes contained in an instrument of consent to the adoption of a child, or • to inducing the parent or person who has parental responsibility to revoke a consent to the adoption of the child given by that parent or person who has parental responsibility,

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				<p>is guilty of an offence.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p> <p>A person who uses or threatens to use any force or restraint or does or threatens to do any injury, or causes or threatens to cause any detriment of any kind to a child with a view:</p> <ul style="list-style-type: none"> • to influencing the child in the expression of any wishes concerning his or her adoption, or • to inducing the child to consent to his or her adoption, or • to inducing the child to revoke consent to his or her adoption, <p>is guilty of an offence.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p>
			Section 185	<p>A person who subscribes his or her name as a witness to the signature of a person to an instrument of consent to the adoption of a child without:</p> <ul style="list-style-type: none"> • being satisfied that the person signing the instrument is a parent of, or person who has parental responsibility for, the child, and • being satisfied that the person signing the instrument is doing so free from any threat, inducement or influence of a

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				<p>kind referred to in section 184, and</p> <ul style="list-style-type: none"> • taking such steps as are prescribed by the regulations to satisfy himself or herself that the person signing the instrument understands the effect of the consent, and • being satisfied that the instrument bears the date on which it is signed by the person giving the consent, <p>is guilty of an offence.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p>
			Section 186	<p>A person must not disclose any information relating to an adopted person, birth parent or adoptive parent obtained in connection with the administration or execution of this Act or the regulations, except:</p> <ul style="list-style-type: none"> • with the consent of the person from whom the information was obtained, or • in connection with the administration or execution of this Act or the regulations, or • for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of any such proceedings, or • in accordance with a requirement imposed under the <i>Ombudsman Act 1974</i>, or

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				<ul style="list-style-type: none"> • with other lawful excuse. <p>In any proceedings concerning Chapter 8 (provision of adoption information) before any court or tribunal, the court or tribunal may make an order forbidding publication of all or any of the information mentioned in the proceedings relating to an adopted person, birth parent, adoptive parent, relative or other person.</p> <p>A person must not publish information in breach of an order made under this section.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p>
			Section 187	<p>A prospective adoptive parent of a child must not:</p> <ul style="list-style-type: none"> • contact or attempt to contact a birth parent of the child, or • procure another person to contact or attempt to contact a birth parent, <p>(whether in or outside New South Wales) before the child has been allocated to the adoptive parent in accordance with this Act and the allocation has been accepted.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p> <p>It is not an offence to contact or attempt to contact a birth parent or procure another person to contact or attempt to</p>

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				<p>contact a birth parent if:</p> <ul style="list-style-type: none"> • the prospective adoptive parent is a relative or a step parent, or • the contact has been approved by the Director-General.
				<p>188 Veto on contact - offences </p> <p>(cf AI Act s 28)</p> <p>(1) An information recipient must not:</p> <p>(a) contact or attempt to contact the person who lodged a contact veto against contact by the information recipient, or</p> <p>(b) procure another person to contact or attempt to contact that person.</p> <p>(2) An information recipient must not:</p> <p>(a) use information obtained under this Act after the lodgement of a contact veto to intimidate or harass the person who lodged the contact veto against contact by the information recipient, or</p> <p>(b) procure any other person to intimidate or harass that person by the use of that information.</p> <p>(3) A person is not to claim to act on behalf of or hold himself or herself out as being willing to act on behalf of another person with a view to contravening this section.</p>

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				<p>(4) In this section:</p> <p>'information recipient' means an adopted person, adoptive parent, birth parent, relative or other person:</p> <p>(a) who has received an authority to supply adoption information, original birth certificate or amended birth certificate endorsed with a contact veto against contact by him or her (being a contact veto that remains in force), or</p> <p>(b) who has had disclosed to him or her prescribed information under this Act and who has knowledge that a contact veto against contact by him or her is then in force.</p> <p>(5) This section extends to an act contravening this section done outside Australia by a person resident or domiciled in the State.</p> <p>Maximum penalty: 25 penalty units or imprisonment for 12 months, or both.</p>

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 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national</p>	<p>Adoption Act 1984</p>	<p>Victoria</p>	<p>Part I, section 9</p>	<p>S9 requires that the welfare and interests of the child be the paramount consideration in the administration of the Act.</p>
			<p>Part I, section 6</p>	<p>The Court having jurisdiction to make an adoption order or any other order under the Act is:</p> <p>(a) The Supreme Court; or</p> <p>(b) at the option of the applicant - the County Court.</p> <p>If an application for an adoption order is made to the County Court and the County Court considers that the matter should be dealt with by the Supreme Court, the County Court may direct that the application be transferred to the Supreme Court.</p>
			<p>Part I, section 7(1)</p>	<p>The Court may not make an order for the adoption of a child unless:</p> <ul style="list-style-type: none"> • at the time of the filing in the Court of the application for the order: • the applicant or each of the applicants, was resident or domiciled in Victoria; and • the child was present in Victoria; or • the child was born in Victoria and, at the time of the filing in

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<p>adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>the Court of the application for the order, was under the guardianship of the Secretary or the principal officer of an approved agency.</p> <p>'Child' means 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 or has been made (Part I, section 4 - Definitions).</p>
			Part I, section 8	The jurisdiction of a Court to make an adoption order shall not be dependent on any fact or circumstances not expressly specified in the Act.
			Part II, Division 1 (General) , section 10	<p>The Court may make an order for the adoption of a person who:</p> <p>(a) had not attained the age of 18 years before the date of filing of the application in the Court; or</p> <p>(b) has been brought up, maintained and educated by the applicant(s), or by the applicant and its deceased spouse or de facto spouse, as the child of the applicant or its deceased spouse or de facto spouse as if the applicant were the parent of that child, or the applicant and its deceased spouse or deceased de facto spouse were the parents of that child.</p> <p>An order may be made for the adoption of a child even if the child had previously been adopted.</p>
			Part II, Division 1 (General) ,	An application for an adoption order under sections 11 and 12 may be made by a:

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			section 10A	<p>(a) man and a woman who are married or living in a relationship for not less than 2 years;</p> <p>(b) person who is married or living in a relationship for not less than 2 years and who proposes adopting a child of his or her spouse or de facto spouse, or a child who is related to his or her spouse or de facto spouse.</p>
			Part II, Division 1 (General) , section 11	<p>Section 11(1-4) generally requires that the adoptive parents are married or have been living in an heterosexual de facto relationship for 2 years.</p> <p>There is provision for a single person to adopt a child where the Court is satisfied that 'special circumstances exist in relation to the child which makes it desirable' to make an adoption order (s11(3)).</p> <p>(1) An adoption order may be made in favour of a man and a woman:</p> <p>(a) who have been married for not less than two years; or</p> <p>(b) whose relationship is recognized as a traditional marriage by an Aboriginal community or group; or</p> <p>(c) who have been living in a de facto relationship for not less than 2 years; or</p> <p>(d) who have been living in any combination of the relationships referred to in paragraphs (a) to (c) for not less than 2 years,</p>

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				<p>before the date on which the order is made.</p> <p>(2) The Court shall not make an adoption order in favour of a person who is, or persons either of whom is, the mother of the child or a man who, under section 33(3), is an appropriate person to give consent to the adoption of the child.</p> <p>(3) Where the Court is satisfied that special circumstances exist in relation to the child which make it desirable so to do, the Court may make an adoption order in favour of one person.</p> <p>(4) The Court shall <u>not</u> make an adoption order in favour of 1 person:</p> <p>(a) if that person is married unless that person is living separately and apart from his or her spouse; or</p> <p>(b) if that person is married and is living with his or her spouse, except with the consent of that spouse; or</p> <p>(c) if that person has been in a de facto relationship for not less than 2 years, except with the consent of that person's de facto spouse.</p> <p>(5) The spouse or de facto spouse of a parent or of an adoptive parent of a child may make an application to the Court under this Act for an order for the adoption of the child by that spouse or de facto spouse.</p> <p>(6) Where an application is made under subsection (5), the Court must not make an order for the adoption of the child solely by</p>

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				<p>that spouse or de facto spouse unless it is satisfied that:</p> <p>(a) an order for the guardianship or custody of the child under the <i>Family Law Act 1975</i> (Cth) would not make adequate provision for the welfare and interests of the child; and</p> <p>(b) exceptional circumstances exist; and</p> <p>(c) the adoption order would make better provision for the welfare and interests of the child than an order referred to in paragraph (a); and</p> <p>(d) in the case of an order in favour of a de facto spouse, neither that spouse nor his or her de facto spouse is married to another person at the time that the order is made.</p> <p>(7) If an order for the adoption of a child is made under subsection (6), the spouse or de facto spouse shall be deemed to be a parent of the child, jointly with that parent or adoptive parent as if the spouse or de facto spouse and that parent or adoptive parent had been married to each other at the time the child was born but notwithstanding anything in section 53:</p> <p>(a) the child is not to be treated in law as if the child were not the child of that parent or adoptive parent; and</p> <p>(b) that parent or adoptive parent is not to be treated in law as if the parent or adoptive parent were not a parent of that child; and</p> <p>(c) the relationship between the child and that parent or adoptive</p>

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				<p>parent is not terminated; and</p> <p>(d) if that parent or adoptive parent had been the guardian of the child, the order does not terminate the guardianship; and</p> <p>(e) if the child were the adopted child of that adoptive parent, the order does not terminate that adoption.</p> <p>'de facto relationship' means the relationship of a man and a woman who are living together as husband and wife on a genuine domestic basis, although not married to each other.</p>
			Part II, Division 1 (General) , section 12	<p>The Court shall not make an order for the adoption of a child in favour of a person who (or whose spouse or de facto spouse) is a relative of the child unless the Court is satisfied that:</p> <p>(a) an order in relation to the guardianship or custody of the child under the <i>Family Law Act 1975</i> (Cth) would not make adequate provision for the welfare and interests of the child; and</p> <p>(b) exceptional circumstances exist; and</p> <p>(c) the adoption order would make better provision for the welfare and interests of the child than an order referred to in paragraph (a); and</p> <p>(d) in the case of an order in favour of two persons in a de facto relationship, one of whom is a relative of the child, neither of those persons is married to another person at the time that the order is made; and</p>

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				<p>(e) in the case of an order in favour of a person living in a de facto relationship and whose de facto spouse is a relative of the child, neither that person nor his or her de facto spouse is married to another person at the time that the order is made.</p> <p>'relative', in relation to a child, means a grandparent, brother, sister, uncle or aunt of the child, whether the relationship is of the whole blood or half-blood or by affinity, and notwithstanding that the relationship depends upon the adoption of any person.</p>
			<p>Part II, Division 1 (General) , section 13</p>	<p>Persons who may apply under s10A(a) for an adoption order under s11, may apply to the Secretary or the principal officer of an approved agency for approval as fit and proper persons to adopt a child.</p> <p>The application must be made in accordance with the regulations.</p> <p>The Secretary or the principal officer of an approved agency may approve applicants as fit and proper persons to adopt a child if the applicants satisfy the prescribed requirements.</p> <p>The Secretary or the principal officer of an approved agency may revoke an approval given.</p> <p>The Secretary or the principal officer of an approved agency must not refuse, defer or revoke an approval, unless the Secretary or principal officer has:</p> <p>(a) notified the applicant or approved person in writing of the reasons for the refusal, deferment or revocation; and</p>

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				<p>(b) given the applicant or approved person a reasonable opportunity to make a written or oral submission to the Secretary or principal officer.</p> <p>'Secretary' means the Secretary to the Department of Human Services.</p> <p>'approved agency' means a welfare organization approved by the Secretary under Division 2 of Part II.</p>
			Part II, Division 1 (General) , section 13A	<p>The Secretary and the principal officer of an approved agency must keep a register of persons:</p> <p>(a) who have been approved by the Secretary/principal officer under section 13 as fit and proper persons to adopt a child; and</p> <p>(b) whose application for approval has been refused, deferred or revoked by the Secretary/principal officer.</p> <p>Penalty: 5 penalty units.</p>
			Part II, Division 1 (General) , section 14 (Counselling)	<p>An order for the adoption of a child shall not be made unless the Court is satisfied that:</p> <p>(a) at least 28 days before the day on which the adoption order is to be made the child received counselling from an approved counsellor as to the effects of the adoption; and</p> <p>(b) as far as practicable, the wishes of the child have been ascertained and due consideration given to them, having regard to</p>

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				<p>the age and understanding of the child.</p> <p>The counselling requirement does not apply if the Court is satisfied that counselling is inappropriate having regard to the age and understanding of the child.</p> <p>A person who has given counselling to a child must provide a written report to the Court.</p> <p>'Approved counsellor' means a person approved by the Secretary (by notice published in the Government Gazette) as a counsellor for the purposes of the Act. The Secretary may revoke such approval by published notice.</p> <p>The Secretary may not approve a person as a counsellor unless the person is:</p> <ul style="list-style-type: none"> (a) an officer or employee of the Department of Human Services; (b) employed by an approved agency; or (c) a person who in the opinion of the Secretary has such qualifications and experience as is appropriate for a counsellor for the purposes of the Act.
			Part II, Division 1 (General) , section 15	<p>The Court may not make an order for the adoption of a child unless it has received a report in writing from the Secretary or the principal officer of an approved agency concerning the proposed adoption and the Court is satisfied that:</p> <ul style="list-style-type: none"> (a) the applicants satisfy the prescribed requirements relating to

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				<p>approval of applicants and, except in the case of an order referred to in s12, the applicants have been approved under s13;</p> <p>(b) the Secretary or principal officer has given consideration to any wishes expressed by a parent of the child in relation to the religion, race or ethnic background of the proposed adoptive parent or adoptive parents of the child;</p> <p>(c) the Secretary or principal officer has given consideration to any wishes expressed by a parent of the child after consent was given or dispensed with about access to or information about the child and any arrangements agreed between the parent and the proposed adoptive parents of the child for access to the child or for the giving of information about the child; and</p> <p>(d) the welfare and interests of the child will be promoted by the adoption.</p> <p>Section 15 (1) does not apply in relation to an order under section 10 for the adoption of a child who has attained the age of eighteen years. The Court shall not make an adoption order unless it is satisfied that special circumstances make it desirable that the child should be adopted.</p>
			Part II, Division 1 (General) , section 16	<p>The Court shall not make an order for the adoption of a child unless the applicant(s) for the adoption order has or have given notice of the application:</p> <p>(a) to any person whose consent to the adoption of the child is required under section 33 but whose consent has not been given</p>

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				<p>and has not been dispensed with under section 43;</p> <p>(b) to any person who is not a parent of the child but is a guardian of the child; and</p> <p>(c) to any person (not being a person whose consent is required) with whom the child resides or who has the care or custody of the child.</p> <p>The Court may, upon application in writing, dispense with the giving of a notice.</p> <p>Where it appears to the Court to be necessary in the interests of justice so to do, the Court may direct that notice of an application for an adoption order be given to any person.</p>
			Part II, Division 1 (General) , ss 17-18	<p>The Court may permit such persons as it thinks fit to be joined as parties to the proceedings for the purpose of opposing the application or an application to dispense with the consent of a person. (s17).</p> <p>If the Court refuses an application for an adoption, it may make such order for the care and control of the child as it thinks fit (s18).</p>
			Part II, Division 1 (General) , section 19	<p>(1) An eligible person may apply to the Court for an order discharging an adoption order if:</p> <p>the adoption order (or a consent) was obtained by fraud, duress or other improper means; or</p>

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				<p>(a) special circumstances exist why the adoption order should be discharged.</p> <p>'eligible person' means the adopted, a natural parent of the adopted child, an adoptive parent of the adopted child, the Secretary or the principal officer of the approved agency.</p> <p>'special circumstance's' includes an irretrievable breakdown of the relationship between the adoptive parents and the adopted person.</p> <p>(5A) The Court shall not make a discharge order unless it is satisfied that the welfare and interests of the child would be promoted by the discharge of the adoption order.</p> <p>(6) Where the Court makes an order discharging an adoption order, any consent given under the Act ceases to have effect.</p> <p>(7) The Court may make any ancillary orders to the discharge order it thinks necessary in the interests of justice or the welfare and interests of the child, regarding the:</p> <p>(a) name of the child;</p> <p>(b) ownership of property;</p> <p>(c) custody or guardianship of the child; or</p> <p>(d) domicile of the child.</p> <p>(9) The Court may allow any of the following persons to appear</p>

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				<p>and address the Court at the hearing of an application for the discharge of an adoption order:</p> <ul style="list-style-type: none"> (a) the child; (b) a natural parent of the child; (c) an adoptive parent of the child; (d) the Secretary; (e) the principal officer of that agency; (f) any other person whom the Court determines has a sufficient interest in the matter.
			Part II, Division 2, section 20	<p>Arrangements for adoptions may only be made by the Secretary or by an approved agency.</p> <p>Only a person authorized in writing by the Secretary or the principal officer of the approved agency may provide adoption services.</p> <p>This section does not prevent the doing of anything required or authorised to be done by the Hague Convention.</p> <p>'Hague Convention' means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption signed at The Hague on 29 May 1993.</p>
			Part II,	A person who arranges adoptions under section 20 must not

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			Division 2, section 20A	<p>assess a person as suitable to adopt a child unless he/she is satisfied that the:</p> <p>(a) man and woman referred to in s11(1) have been married or living in a de facto relationship for not less than 2 years;</p> <p>(b) person seeking to adopt a child and his or her spouse or de facto spouse have been married or living in a relationship for not less than 2 years.</p>
			Part II, Division 2 (Arrangement of adoptions), ss 21-25)	<p>Any welfare organization may apply in writing to the Secretary for approval as an approved agency for a period not exceeding 3 years (ss 21 and 25).</p> <p>The application must contain prescribed information and must be published by the Secretary in the Government Gazette.</p> <p>The Secretary may, as he/she thinks fit, grant or refuse an application under s21.</p> <p>The Secretary must take into account the qualifications, experience, character and number of the persons taking part in the management or control of the organization. The Secretary may refuse an application if the applicant is not suited to providing the adoption services for which approval is sought or is not a welfare organization within the meaning of s21.</p> <p>The Secretary may at any time revoke or suspend the approval of the agency or the authority of the agency under section(s24).</p> <p>The notice of approval of a welfare organisation as an approved</p>

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				agency must be published in the Government Gazette. Notices of revocation/suspension of approval must also be published in the Government Gazette (s 24).
			Part II, Division 2, section 23	The Secretary may authorize an approved agency (under section 21 or 26 or at any other time) to make arrangements with a prescribed class of persons or organizations in places outside Australia for the adoption in Victoria of non-citizen children.
			Part II, Division 2, section 32	In all matters relating to the exercise of powers and the performance of duties under the Act, the Secretary and the principal officer of an approved agency shall have regard to adoption as a service for the child.
			Part II, Division 3, section 33	<p>(1) The Court shall not make an order for the adoption of a child unless it is satisfied that:</p> <p>(a) consent to the adoption has been given in accordance with division 3 by the appropriate person(s) and the requirements of section 35 were complied with; or</p> <p>(b) there is not an appropriate person 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 before its birth and who has not previously been adopted, the appropriate persons are the mother or the father of the child.</p> <p>(3) In the case of a child whose parents were not married to each other and who has not previously been adopted, the appropriate</p>

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				<p>persons are the mother of the child or a man:</p> <p>(a) whose name is entered in a register of births (in or outside Victoria) as the father of the child;</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 <i>Status of Children Act 1974</i>;</p> <p>(c) against whom an order has been made under section 10 or 12 of the <i>Maintenance Act 1965</i> in respect of the child (with a copy of the order filed in the office of the Registrar under section 9(3) of the <i>Status of Children Act 1974</i>;</p> <p>(d) who is named in an instrument filed in the office of the Registrar under section 9(1) of the <i>Status of Children Act 1974</i> as the father of the child; or</p> <p>(e) who has lodged with the Secretary or with an approved agency arranging the adoption evidence that:</p> <p>(i) an order was made outside Victoria and is under section 8(5) of the <i>Status of Children Act 1974</i> prima facie evidence that he is the father of the child;</p> <p>(ii) he is, or has 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</p>

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				<p>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 section 33(3)(e), an appropriate person.</p> <p>(5) In the case of a child who has previously been adopted, the appropriate persons are the adoptive parent of the child.</p> <p>(6) In the case of a child who is a non-citizen, the appropriate person is the person who, under the <i>Immigration (Guardianship of Children) Act 1946</i> (Cth), is the guardian of the child or another person to whom the guardian delegated his powers.</p> <p>Section 33 does not apply in the case of a child who has attained the age of 18 years before the making of the adoption order.</p>
			Part II, Division 3, section 34	<p>Section 34 sets out the procedure for giving consent.</p> <p>(1) A person giving consent must sign the prescribed form in the presence of a person:</p> <p>(a) referred to in subsection (2); and</p> <p>(b) approved by the Secretary or the principal officer of an approved agency.</p> <p>The persons in whose presence the form of consent was signed must sign the prescribed statements.</p>

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				<p>(2) Each of the following may witness a consent:</p> <p>(a) a prescribed official of a court;</p> <p>(b) a person declared by Order of the Governor in Council published in the Government Gazette to be an authorized person;</p> <p>(c) the principal administrative officer of a court (if the consent is signed in another State or in a Territory)</p> <p>(3) Where a consent by a person is given in a country outside Australia:</p> <p>(a) the person must sign the consent in the presence of two persons each of whom is:</p> <p>(b) an Australian diplomatic officer within the meaning of the <i>Consular Fees Act 1955</i> (Cth);</p> <p>(c) a judge of a court in that country; or</p> <p>(i) a magistrate in that country;</p> <p>(ii) one of the above persons must provide information about the effect of an adoption order under the Act and about the alternatives to adoption available in Victoria, not less than seven days before the consent is given; and</p> <p>(iii) the two persons have signed the prescribed statements.</p> <p>(4) A person referred to in s34(3)(a) may, in special</p>

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				<p>circumstances, approve a time less than 7 days but not less than 24 hours for providing information about the adoption order.</p> <p>(5) The Governor in Council may, by Order published in the Government Gazette, revoke or vary an Order made under s34(2).</p>
			<p>Part II, Division 3, section 35</p>	<p>The following requirements must be complied with before a person gives consent:</p> <p>(a) the person must receive counselling from a person approved by the Secretary or the approved agency;</p> <p>(b) the counsellor must (not less than 7 days before the consent is given) give the person information in writing about the effect of an adoption order, the alternatives to adoption and the names and addresses of organizations that provide family support services;</p> <p>(c) notice in writing must be given to the person that he/she may, at any time make an application for a certified copy of the entry in the Register of Births relating to the child.</p> <p>(2) A person referred to in s34(2) may, in special circumstances, approve a time less than 7 days but not less than 24 hours for providing information about the adoption order.</p> <p>(3) A certificate signed by the Secretary or the principal officer of an approved agency is proof in the absence of contrary evidence that the requirements of s35(1) have been complied with.</p> <p>(4) Where a consent is given in a place outside Victoria, the</p>

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				requirements referred to in s35(1) do not apply.
			Part II, Division 3, section 36	<p>A person who is a guardian of a non-citizen child (under s33(6)) must sign the form of consent and a declaration that the person believes on reasonable grounds that:</p> <p>(a) each of the parents of the non-citizen child:</p> <p>(i) has given consent, in accordance with the law of the place of residence of that parent or of the non-citizen child immediately before the non-citizen child began the journey to Australia, to the adoption of the non-citizen child and has not revoked that consent; or</p> <p>(ii) is dead or cannot be found after reasonable inquiry; or</p> <p>(b) circumstances exist by reason of which the consent of a parent could be dispensed with.</p>
			Part II, Division 3, section 37	<p>(1) A consent by a parent to the adoption of a child within the Aboriginal community under s50 may be made subject to a condition that that parent and any specified relatives of the child or members of the Aboriginal community to which the child belongs have a right of access to the child.</p> <p>(2) Where the Secretary or the approved agency is unable to find a suitable person within the Aboriginal, the Secretary or principal officer must, by notice in writing inform the parent and that parent may, within 28 days, by notice in writing served on the Registrar of the County Court, vary the conditions or revoke</p>

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				<p>the consent.</p> <p>(3) After the expiration of the period of 28 days, the Secretary or the principal officer may apply to the Court for the revocation or alteration of the conditions of consent.</p> <p>(4) The Court may make such order as it thinks fit on an application under s37 (3) where it is satisfied that the Secretary or the principal officer has taken such steps as are reasonable in the circumstances to satisfy the conditions to which the consent was subject and has received and considered a report from an Aboriginal agency within the meaning of s50.</p>
			Part II, Division 3, section 38	Where a person has given consent and the Secretary or principal officer is of the opinion that it is no longer possible to place the child with a proposed adoptive parent(s), the Secretary or principal officer shall notify in writing each person who has given such consent of its right to revoke the consent within 56 days after the giving of the notice.
			Part II, Division 3, section 39	<p>A consent shall be construed as a general consent to the adoption of the child by any person/persons on whose application an adoption order may be made under the Act.</p> <p>A consent to the adoption of a child by a relative of the child, or by a spouse or de facto spouse of a parent of the child, shall be construed as a consent to the adoption of the child by that relative or spouse or de facto spouse only.</p>
			Part II, Division 3,	Where:

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			section 40	<p>(a) a person whose consent to the adoption of a child is required by section 33 has, in accordance with the law of another State or of a Territory, duly signed an instrument of consent to the adoption of the child; and</p> <p>(b) the consent evidenced by the instrument of consent has not been revoked in accordance with the law of that other State or Territory,</p> <p>that instrument of consent will be deemed to be an instrument executed in accordance with s33(1).</p>
			Part II, Division 3, section 41	<p>A consent by a person to the adoption of a child may be revoked by notice in writing (delivered personally or by certified mail) to the Registrar of the County Court before:</p> <p>(a) the expiration of 28 days after the date on which the instrument of consent was signed;</p> <p>(b) the expiration of 28 days after the giving of a notice under section 37(2); or</p> <p>(c) the expiration of 56 days after the giving of a notice under section 38,</p> <p>and not otherwise.</p> <p>Upon receiving notice in writing of the revocation of a consent to the adoption of a child, the Registrar of the County Court shall notify the Secretary or the principal officer of an approved</p>

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				agency (if the officer is the guardian of the child).
			Part II, Division 3, section 42	<p>The Court shall not make an adoption order if:</p> <ul style="list-style-type: none"> (a) the consent was not given in accordance with the Act; (b) the consent was obtained by fraud or duress; (c) the consent was revoked at a time when it had not become irrevocable; (d) the instrument of consent has been altered in a material particular without authority; (e) the person giving or purporting to give the consent was not, when the instrument of consent was signed, in a fit condition to give the consent or did not understand the nature of the consent; or (f) the instrument of consent was signed before the birth of the child. <p>The Court shall not make an adoption order if the consent by a parent of the child was signed within 14 days after the birth of the child.</p>
			Part II, Division 3, section 43	The Court may dispense with the consent of a person (other than a guardian under section 33(6)) to the adoption of a child where it is satisfied that:

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				<p>(a) the person cannot, after reasonable inquiry, be found;</p> <p>(b) the person is in such a physical or mental condition as not to be capable of properly giving consent (a certificate signed by not less than 2 registered medical practitioners is required);</p> <p>(c) the person has abandoned, deserted, persistently neglected or ill-treated the child;</p> <p>(d) the person has seriously ill-treated the child to the extent that it is unlikely that the child would accept, or be accepted by the person within, the family of that person;</p> <p>(e) the person has, for a period of not less than one year, failed, without reasonable cause, to discharge the obligations of a parent of the child;</p> <p>(f) the person has such a physical or mental disability that the person would be unable to meet the needs of the child;</p> <p>(g) for any reason the child is unlikely to be accepted into, or to accept, a family relationship with the person; or</p> <p>(h) there are other special circumstances by reason of which, in the interests of the welfare of the child, the consent may properly be dispensed with.</p> <p>The Court may make an order dispensing with the consent of a person whose consent is required (this order may be revoked at any time before the making of an adoption order).</p>

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			Part II, Division 3, section 44	<p>(1) Where a person (other than a person to whom section 33(6) applies) has given consent, the Secretary or principal officer shall within 7 days after the occurrence of the following events, give notice in writing to the person of that event:</p> <p>(a) the expiration of the period under section 41(1)(a) during which consent may be revoked;</p> <p>(b) the placement of the child to whom the consent relates with a proposed adoptive parent or adoptive parents;</p> <p>(c) the termination of such a placement;</p> <p>(d) the renunciation by the Secretary or principal officer of guardianship of the child;</p> <p>(e) where the child to whom the consent relates dies before an adoption order is made, the death of the child;</p> <p>(f) the making of an order for the adoption of the child.</p> <p>(2) Notice is not required to be given under s44 of an event to which the person has, in writing, requested not to be given notice.</p>
			Part III, Division 3, ss59 -60	<p>S60 provides that the Court may vary an adoption order when it believes it is the best interests of the welfare of an adopted child.</p> <p>The Court may vary the adoption order so that a parent, both parents or a relative of the child may have a right of access to the child or that the adoptive parent(s) provide information about the child to the Secretary or approved agency to be given to the</p>

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				parent(s) of the child (s59A).
			Part IV, S67	<p>S67 deals with the recognition of certain foreign adoptions.</p> <p>ss67 and 68 do not apply to adoptions in a Convention country or a prescribed overseas jurisdiction unless the adoption took place before the commencement of s10 of the <i>Adoption (Amendments) Act 2000</i>.</p> <p>The adoption of a person (before or after the commencement of the Act) in a country, other than New Zealand, outside the Commonwealth and the Territories, being an adoption to which S67 applies, has, so long as it has not been rescinded under the law of that country, the same effect as an adoption order under the Act.</p> <p>S67 applies to an adoption in a country if:</p> <p>(a) the adoption was effective according to the law of that country; either</p> <p>(i) that country was the usual place of abode of the adoptive parent(s) for a continuous period of at least 12 months immediately before the commencement of the legal proceedings which resulted in the adoption; or</p> <p>(ii) the Secretary or the principal officer of an approved agency has, before the adoption in that other country, agreed to the placement of that child with the proposed adoptive parent(s) and the child is placed in accordance with the conditions of approval</p>

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				<p>of the proposed adoptive parent(s);</p> <p>(b) in consequence of the adoption, the adoptive parent(s) had, or would (if the adopted person had been a young child) have had, immediately following the adoption, according to the law of that country, a right superior to that of any natural parent of the adopted person regarding the custody of the adopted person; and</p> <p>(c) under the law of that country the adoptive parent(s) were, by the adoption, placed generally in relation to the adopted person in the position of a parent or parents.</p> <p>The Governor in Council may by proclamation published in the Government Gazette declare that all or any adoptions under the law of a particular country (other than New Zealand) outside the Commonwealth and the Territories shall be conclusively presumed to comply with the conditions specified in paragraphs (b) and (c) of S67(2).</p> <p>The Governor in Council may by proclamation also revoke or vary any proclamation.</p> <p>The production of a document purporting to be the original or a certified copy of an order or record of adoption made by a court or a judicial or public authority in any country, other than New Zealand, outside the Commonwealth and the Territories shall, in the absence of proof to the contrary, be sufficient evidence:</p> <p>(a) that the adoption was made in that country and is effective according to the law of that country; and</p>

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				<p>(b) that the adoption has not been rescinded.</p> <p>Notwithstanding S67, a Court (including a Court dealing with an application under S69) may refuse to recognize an adoption as being an adoption to which this section applies if it appears to the Court that the procedure followed, or the law applied, in connexion with the adoption involved a denial of natural justice or did not comply with the requirements of substantial justice.</p> <p>Where, in any proceedings before a Court (including proceedings under section 69), the question arises whether an adoption is one to which this section applies, it shall be presumed, unless the contrary appears from the evidence, that the adoption complies with the requirements of S67 (2) and has not been rescinded.</p> <p>Except as provided in S67, the adoption of a person (before or after the commencement of this Act) in a country, other than New Zealand, outside the Commonwealth and the Territories does not have effect for the purposes of the laws of Victoria.</p>
			Part IV, S68	<p>S68 deals with the supervision of children adopted in a foreign country (not a Convention country or a prescribed overseas jurisdiction).</p> <p>(1) Where:</p> <p>(a) a child is adopted in a country, other than New Zealand, outside the Commonwealth and the Territories, whether or not the adoption is an adoption that has the same effect as an adoption order under the Act;</p>

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				<p>(b) the adoption in relation to the child has been in force for a period not exceeding twelve months;</p> <p>(c) neither of the adoptive parents of the child was or (where there is only one adoptive parent) that parent was not, at the time of the making of the order of adoption concerning the child a national or citizen of the country in which the order was made; and</p> <p>(d) the child is present in Victoria,</p> <p>(e) the Secretary may supervise the welfare and interests of the child for a period not exceeding 6 months commencing on the date of the arrival of the child in Victoria and any person authorized in writing by the Secretary for that purpose has a right of access to the child at all reasonable times during that period.</p> <p>(2) Where a child whose welfare and interests may be supervised by the Secretary under S68(1) has, after being adopted but before arriving in Victoria, been resident in any other State or in a Territory or in New Zealand, the period during which the child is subject to the supervision of the Secretary is reduced proportionately to the period of such residence in that other State or Territory or in New Zealand.</p> <p>(3) Notwithstanding S68(1), the Secretary may, in his/her discretion, exempt any child to from the provisions of S68(1).</p> <p>(4) Where either or both of the adoptive parents of the child or, where there is only one adoptive parent, that parent, was not, before the child was adopted, approved by the Secretary or the</p>

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				<p>principal officer of an approved agency as a person suitable to be an adoptive parent of a child under the law of a country, other than New Zealand, outside the Commonwealth and the Territories, the reference in S68(1) to a period not exceeding 6 months shall be read as a reference to a period not exceeding 12 months.</p> <p>(5) Where the Secretary supervises the welfare and interests of a child under this S68, the Secretary may require payment by the adoptive parents or adoptive parent of the child of a fee not exceeding the amount prescribed for the purposes of this section.</p>
			<p>Part IVA, Division 1, ss69A, 69B, 69C</p>	<p>Part IVA deals with adoptions under the Hague Conventions.</p> <p>The Court may make an order under s69B for the adoption in Victoria of a child who is habitually resident in a Convention country if the requirements of ss15 and 51 are satisfied and the Court is satisfied that the:</p> <ul style="list-style-type: none"> (a) child is in Victoria; (b) child is not prevented from residing permanently in Australia (under a law or court order of the Commonwealth, State or Territory); (c) arrangements for the adoption of the child are in accordance with the requirements of the Hague Convention; (d) Central Authority of the Convention country has agreed to the adoption of the child; and

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				<p>(e) State Central Authority has agreed to the adoption of the child.</p> <p>'Convention country' means, subject to article 45 of the Hague Convention:</p> <p>(a) a country specified in Schedule 2 to the <i>Family Law (Hague Convention on Intercountry Adoption) Regulations 1998</i> (Cth); and</p> <p>(b) any other country for which the Convention has entered into force, other than:</p> <p>(i) Australia; and</p> <p>(ii) a country against whose accession Australia has raised an objection under article 44 of the Convention.</p> <p>'Central Authority' means a person or office designated for a Convention country under article 6 of the Hague Convention.</p> <p>The Court may make an order under s69 for the adoption of a child in Victoria by a person who is habitually resident in a Convention country if the requirements of s15 are satisfied and the Court is satisfied that the:</p> <p>(a) child is in Victoria;</p> <p>(b) child is not prevented from leaving Australia (under a law or court order of the Commonwealth, State or Territory); and</p>

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				<p>(c) arrangements for the adoption of the child are in accordance with the requirements of the Hague Convention; and</p> <p>(d) Central Authority of the Convention country has agreed to the adoption of the child; and</p> <p>(e) State Central Authority has agreed to the adoption of the child.</p> <p>If the Court makes an order for adoption under s69A or 69B, the State Central Authority may issue an adoption compliance certificate (s69C).</p>
			Part IVA, Division 1, ss69D,69E, 69F	<p>Section 69D provides that the adoption in a Convention country of a child habitually resident in a Convention country by a person habitually resident in Australia, is recognised if an adoption compliance certificate issued in that country is in force for the adoption.</p> <p>Section 69E provides that if a child resident in a Convention country is adopted by a person who is resident in another convention country, the adoption is recognised with effect from the day the adoption compliance certificate becomes effective.</p> <p>Section 69F provides that if the adoption of a child is recognised under ss69D and 69E, the adoption has the same effect as an adoption under the Act.</p>
			Part IVA, Division 1,	If the State Central Authority considers that:

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			s69I	<p>(a) an adoption recognised under section 69D or 69E; or</p> <p>(b) a decision made in accordance with article 27 of the Hague Convention,</p> <p>is contrary to public policy, taking into account the best interests of the child to whom the adoption or decision relates, the State Central Authority may apply to the Court for a declaration that the adoption or decision is not recognised.</p> <p>If a court declares that an adoption or decision is not recognised, the adoption or decision has no effect in Victoria.</p> <p>The State Central Authority must give the Commonwealth Central Authority:</p> <p>(a) written notice of each application under s69I(1) and the reasons for making it as soon as practicable after it is made.</p> <p>(b) written notice of the Court's determination of each application under s69I(1).</p>
			Part IVA, Division 1, s69J	<p>If a person:</p> <p>(a) wishes to adopt a child in a Convention country; and</p> <p>(b) is on the register of approved persons kept under section 13A by the Secretary or the principal officer of an approved agency,</p> <p>(c) the State Central Authority or an accredited body must prepare a report that complies with article 15 of the Hague</p>

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				<p>Convention.</p> <p>The State Central Authority must send each report to the Central Authority of the Convention country.</p>
			<p>Part IVA, Division 1, ss69K and 69L</p>	<p>Sections 69K to 69M deal with the State Central Authority.</p> <p>S69K states that the Secretary is appointed to be the Central Authority for the State of Victoria for the purposes of article 6.2 of the Hague Convention.</p> <p>The Secretary must advise the Commonwealth Central Authority that the Secretary is the State Central Authority and the address and functions of the State Central Authority.</p> <p>S69L states that the State Central Authority, in Victoria has all the duties of a Central Authority under the Hague Convention; and may exercise all of the powers of a Central Authority under the Hague Convention (with the exception of any functions that are functions of the Commonwealth Central Authority under the <i>Family Law (Hague Convention on Intercountry Adoption) Regulations 1998 (Cth)</i>).</p>
			<p>Part IVA, Division 3, ss69N and 69S</p>	<p>Section 69N provides that an approved agency may apply to the State Central Authority for accreditation as an accredited body for the purposes of the Hague Convention.</p> <p>The application must:</p> <p>(a) contain the prescribed information; and</p>

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				<p>(b) nominate a person to be the principal officer of the accredited body for the purposes of the Act.</p> <p>The State Central Authority must publish notice in the Government Gazette of each of:</p> <ul style="list-style-type: none"> • an application under section 69N for accreditation; • an accreditation under section 69O; • an application under section 69R(1) for renewal of accreditation; • a renewal of accreditation under section 69R(2); • a suspension or revocation of accreditation under section 69P.
			Part IVB, ss69T to 69W	<p>Part IV deals with inter-country adoptions.</p> <p>S69U provides that an adoption in a prescribed overseas jurisdiction of a child who is habitually resident in that jurisdiction by a person who is habitually resident in Australia is recognised if:</p> <p>(a) the adoption is granted in accordance with the laws of the overseas jurisdiction; and</p> <p>(b) an adoption certificate is in force in relation to the adoption.</p> <p>The recognition of an overseas adoption under s69U is effective from the date that the adoption takes effect in the prescribed</p>

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				<p>overseas jurisdiction.</p> <p>'adoption authority' means a person, body or office in a prescribed overseas jurisdiction responsible for approving the adoption of children;</p> <p>'adoption certificate' means a document issued by an adoption authority in the prescribed overseas jurisdiction in which the child was habitually resident before being adopted, stating that:</p> <p>(a) the adoption took place in accordance with the laws of that jurisdiction; and</p> <p>(b) the Secretary, or a person or a delegate of a person whose functions in another State or a Territory correspond with those of the Secretary under this Act, agreed that the adoption may proceed.</p> <p>'prescribed overseas jurisdiction' means a country, or part of a country, prescribed as an overseas jurisdiction for the purposes of this Part.</p> <p>S69V provides that if the adoption of a child is recognised under section 69U, then the adoption has the same effect as an adoption order under the Act.</p> <p>S69W states that if the Secretary considers that an adoption recognised under section 69U is contrary to public policy, taking into account the best interests of the child to whom the adoption relates, the Secretary may apply to the Court for a declaration that</p>

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				<p>the adoption is not recognised.</p> <p>If a court declares that an adoption is not recognised, the adoption has no effect in Victoria.</p>
			Part IVB, ss69X and 69Y	<p>S 69X states that an adoption certificate is evidence, for the laws of Victoria, that the adoption to which the certificate relates was carried out in accordance with the laws of the prescribed overseas jurisdiction.</p> <p>If a person:</p> <p>(a) wishes to adopt a child in a prescribed overseas jurisdiction; and</p> <p>(b) is on the register of approved persons kept under section 13A by the Secretary or the principal officer of an approved agency,</p> <p>the Secretary or principal officer may send an assessment report on the person to the adoption authority of the prescribed overseas jurisdiction.</p>
			Part VII, Division 1, ss106	<p>S106 states that proceedings relating to an application for an order:</p> <p>(a) for adoption of a child where that application is contested;</p> <p>(b) dispensing with the consent of a person to the making of an order for adoption of a child; or</p>

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				<p>(c) discharging an order for adoption, shall not be instituted or continued unless the child is separately represented in the proceedings.</p> <p>The Court may also order that the child be separately in any other proceedings under the Act affecting a child.</p>
			Part VII, Division 1, s115	The Secretary or an approved agency may make arrangements for the adoption outside Australia of a child present in Victoria with a person or organization included in a prescribed class of persons or organizations, being a person or organization resident in a country outside Australia that makes arrangements for the adoption of children.
			Part VII, Division 2 (Offences), s115 -117	<p>S116 provides that Division 2 does not apply in respect of acts occurring outside Victoria, but does apply in respect of acts done in Victoria in relation to the adoption of children in, or children adopted in, any other State or a Territory or a country outside the Commonwealth.</p> <p>S 117 provides that any person who was the father/mother/ guardian of a 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.</p> <p>S118 states that any person who receives or harbours a child on</p>

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				<p>behalf of a person who, to his/her knowledge has taken, led enticed or decoyed the child away, or is detaining the child, in contravention of s117, 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>
			<p>Part VII, Division 2 (Offences), s119</p>	<p>S 119(1) provides that any person who (before or after the birth of a child) makes, gives or receives, or agrees to make, give or receive, a payment or reward for or in consideration of:</p> <ul style="list-style-type: none"> (a) the adoption or proposed adoption of a child; (b) the giving of consent, or the signing of an instrument of consent, to the adoption of the child; (c) the transfer of the possession or custody of a child with a view to the adoption of the child; or (d) the making of arrangements with a view to the adoption of a child, <p>shall be guilty of an offence and liable:</p> <ul style="list-style-type: none"> (a) in the case of a body corporate, to a penalty of not more than 500 penalty units; or (b) in any other case, to a penalty of not more than 100 penalty units or to imprisonment for not more than 2 years or both. <p>S119(1) does not apply to the following payments regarding an adoption or proposed adoption under the Act or under the law of</p>

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				<p>another country:</p> <p>(a) a payment of legal expenses;</p> <p>(b) a payment of fees authorized under section 112 or under the regulations;</p> <p>(c) payment made by the adoptive parent or adoptive parents, with the approval in writing of the Secretary or the Court, for hospital and medical expenses reasonably incurred with the birth of the child or the ante-natal or post-natal care and treatment of the mother of the child or of the child;</p> <p>(d) a payment by the Secretary made in accordance with section 105 (i.e. financial assistance); or</p> <p>(e) any other payment or reward authorized by the Secretary or by the Court.</p> <p>Section 119(1) does not apply to a payment concerning an adoption or proposed adoption under the law of another State or of a Territory if the payment would have been lawful if it had taken place in that State or that Territory.</p>
			Part VII, Division 2 (Offences), ss120-121	<p>S120 provides that a person who publishes in a newspaper, by broadcasting, television etc. any advertisement or other matter indicating that:</p> <p>(a) a parent or guardian of a child wishes to have the child adopted;</p>

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				<p>(b) a person wishes to adopt a child; or</p> <p>(c) a person is willing to make arrangements for the adoption of a child,</p> <p>will be guilty of an offence and liable:</p> <p>(a) in the case of a body corporate, to a penalty of not more than 1000 penalty units; or</p> <p>(b) in any other case, to a penalty of not more than 100 penalty units or to imprisonment for not more than 2 years or both.</p> <p>S120 does not apply to an advertisement or other matter that has been approved by the Secretary or by the principal officer of an approved agency.</p> <p>S121 also prohibits the publication/broadcasting of information that identifies a person (or may enable the identification of a person) as a party to an adoption unless consent was given by the person.</p> <p>Penalty: in the case of a body corporate: 1000 penalty units.</p> <p>In any other case, 100 penalty units or imprisonment for 2 years.</p>
			Part VII, Division 2 (Offences), ss122	<p>Any person who, without being authorized in writing by the Secretary or an approved agency:</p> <p>(a) transfers the possession, custody or control of a child to some</p>

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				<p>other person(s) for the adoption of the child by such person(s); or</p> <p>(b) receives possession, custody or control of a child with a view to adopting the child,</p> <p>shall be guilty of an offence and liable:</p> <p>(a) in the case of a body corporate, to a penalty of not more than 500 penalty units; or</p> <p>(b) in any other case, to a penalty of not more than 100 penalty units or to imprisonment for not more than 2 years or both.</p> <p>S122 does not apply to any arrangements made by a parent, guardian or relative of a child for the adoption of the child by a spouse or de facto spouse of a parent of the child or by a relative, or a relative and the spouse or de facto spouse of the relative, of the child.</p>
			<p>Schedule 1 - Convention on Protection of Children and Co-operation in respect of inter-country adoption</p>	<p>The Hague Adoption Convention (29 May 1993) which establishes international standards of practices for inter country adoptions is attached to the Act in schedule 1.</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 21:</p> <p>States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-</p>	<p>Adoption Act 2009</p>	<p>Qld</p>	<p>Section 5</p>	<p>The main object of this Act is to provide for the adoption of children in Queensland, and for access to information about parties to adoptions in Queensland, in a way that:</p> <p>(a) promotes the wellbeing and best interests of adopted persons throughout their lives; and</p> <p>(b) supports efficient and accountable practice in the delivery of adoption services; and</p> <p>(c) complies with Australia's obligations under the Hague convention.</p>
			<p>Section 6</p>	<p>(1) This Act is to be administered under the principle that the wellbeing and best interests of an adopted child, both through childhood and the rest of his or her life, are paramount.</p> <p>(2) Subject to subsection (1), this Act is to be administered under the following principles:</p> <p>(a) the purpose of an adoption is to provide for a child's long-term care, wellbeing and development by creating a permanent parent-child relationship between the child and the adoptive parents;</p> <p>(b) adoption is an appropriate long-term care option for a child if:</p>

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<p>country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>(i) the child's parents choose adoption for the child's long-term care; or</p> <p>(ii) the child does not have a parent who is willing and able to protect the child from harm and meet the child's need for long-term stable care;</p> <p>(c) each of the parties to an adoption or proposed adoption should be given the information he or she reasonably needs to participate effectively in processes under this Act;</p> <p>(d) a 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;</p> <p>(e) the process for a child's adoption should include considering the views of:</p> <p>(i) the child's parents; and</p> <p>(ii) the child, if he or she is able to form and express views about the adoption, having regard to the child's age and ability to understand;</p> <p>(f) an adopted child of a particular ethnic or other cultural background should have:</p> <p>(i) access to information about the child's ethnic or cultural heritage; and</p> <p>(ii) opportunities to develop and maintain a connection with</p>

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				<p>the child’s ethnicity or culture; and</p> <p>(iii) opportunities to maintain contact with the child’s community or language group;</p> <p>(g) a child’s adoptive parents have the primary responsibility for the child’s upbringing, protection and development;</p> <p>(h) an adopted child should be cared for in a way that:</p> <p>(i) ensures a safe, stable and nurturing family and home life; and</p> <p>(ii) promotes openness and honesty about the child’s adoption; and</p> <p>(iii) promotes the development of the child’s emotional, mental, physical and social wellbeing;</p> <p>(i) the same protection, support and resources should be available to an adopted person regardless of whether the adoption was a local adoption, intercountry adoption or adoption by a step-parent;</p> <p>(j) 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</p>

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				<p>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>
			Section 7	<p>(1) This Act is also to be administered under the following principles:</p> <p>(a) because adoption (as provided for in this Act) is not part of Aboriginal tradition or Island custom, adoption of an Aboriginal or Torres Strait Islander child should be considered as a way of meeting the child's need for long-term stable care only if there is no better available option;</p> <p><i>Note:</i></p> <p>Island custom includes a customary child-rearing practice that is similar to adoption in so far as parental responsibility for a child is permanently transferred to someone other than the child's parents. This practice is sometimes referred to as either 'customary adoption' or 'traditional adoption'.</p> <p>(b) it is in the best interests of an Aboriginal or Torres Strait Islander child:</p> <p>(i) to be cared for within an Aboriginal or Torres Strait Islander community; and</p> <p>(ii) to maintain contact with the child's community or language group; and</p> <p>(iii) to develop and maintain a connection with the child's</p>

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				<p>Aboriginal tradition or Island custom; and</p> <p>(iv) for the child’s sense of Aboriginal or Torres Strait Islander identity to be preserved and enhanced.</p> <p>(2) If the Childrens Court exercises a power under this Act in relation to an Aboriginal or Torres Strait Islander child, the court must have regard to the views, about the child and about Aboriginal tradition or Island custom relating to the child, of an appropriate Aboriginal or Torres Strait Islander person.</p> <p>(3) As far as is reasonably practicable, the chief executive and other officers of the department must try to conduct consultations, counselling, negotiations and other proceedings involving an Aboriginal person or Torres Strait Islander in a way and in a place that is appropriate to Aboriginal tradition or Island custom.</p>
			Section 8	<p>(1) Despite the <i>Anti-Discrimination Act 1991</i>, a person may make a decision or do another act that is necessary to comply with, or is specifically authorised by, this Act.</p> <p>(2) Without limiting subsection (1), a person may make a decision or do another act under this Act to comply with the main guiding principle under section 6(1).</p>
			Section 9	<p>Unless a contrary intention appears, a reference in this Act to a child’s wellbeing or best interests is a reference to the child’s wellbeing or best interests through both childhood and the rest of his or her life.</p>

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			Section 17	<p>(1) In this part:</p> <p>'consent' means consent freely and voluntarily given by a person with capacity to give the consent.</p> <p>(2) A reference in this part to consent to an adoption is a reference to:</p> <p>(a) for an adoption of a step-child under part 9, division 4:</p> <p>(i) consent to the child's adoption by the proposed adoptive parent; or</p> <p>(ii) consent to the child's adoption generally; or</p> <p>(b) otherwise, consent to the child's adoption generally.</p>
			Section 18	<p>(1) A parent's consent to the child's adoption must be in the approved form, signed by the parent and witnessed by an authorised person.</p> <p>(2) The approved form must include provision for:</p> <p>(a) information to identify the child; and</p> <p>(b) information to identify the parent; and</p> <p>(c) a signed statement by the witness that the witness has sighted the documents, relating to proof of the parent's identity, prescribed under a regulation.</p> <p>(3) The approved form may also include provision for other matters relevant to the child's adoption that may be, but are</p>

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				<p>not required to be, completed.</p> <p><i>Example of other matters:</i></p> <p>details of another parent of the child to the extent the details are known by the parent giving the consent</p> <p>(4) A single document must not contain:</p> <p>(a) consent to the adoption of more than 1 child; or</p> <p>(b) more than 1 parent’s consent to the adoption of the child.</p> <p>(5) In this section:</p> <p>'authorised person' means a public service employee, or other appropriate person in Queensland or elsewhere, authorised by the chief executive to witness a consent for this Act.</p>
			Section 19	<p>A parent’s consent to the child’s adoption may not be given:</p> <p>(a) less than 30 days after the child’s birth; or</p> <p>(b) less than 14 days after the parent is given the documents under section 22; or</p> <p>(c) less than 14 days after the parent is given the prescribed information under section 23; or</p> <p>(d) less than 14 days after the day the counsellor swears the statement mentioned in section 175(3)(b).</p>

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			Section 20	A parent may revoke the parent's consent to the child's adoption only by giving a signed notice to the chief executive within 30 days after the consent is given.
			Section 21	The chief executive must ensure information is given to each 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.
			Section 22	The chief executive must give to each of the child's parents: (a) a document showing the contents of the approved form for section 18; and (b) a document that the parent may use to revoke consent given by the parent to the child's adoption.
			Section 23	(1) The chief executive must give each of the child's parents a document containing information about the following matters (the <i>prescribed information</i>): (a) options other than adoption for the child's long-term care; (b) support (financial and otherwise) that may be available to the parent whether or not adoption of the child proceeds; (c) possible psychological effects for the parent, both short and long-term, of consenting to the adoption; (d) possible psychological effects for the child, both short

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				<p>and long-term, of being adopted;</p> <p>(e) how and when the parent’s consent to the adoption may be revoked;</p> <p>(f) how the parent may give the chief executive the parent’s preferences relating to the child’s adoption including, for example, preferences about:</p> <p>(i) the child’s religious upbringing; or</p> <p>(ii) the characteristics of the child’s adoptive parents and adoptive family; or</p> <p>(iii) the degree of openness in the adoption;</p> <p>(g) the adoption process under this Act, including:</p> <p>(i) the consents required for an adoption; and</p> <p>(ii) the process for recruiting, assessing and selecting prospective adoptive parents; and</p> <p>(iii) the chief executive’s functions and powers relating to the child’s adoption; and</p> <p>(iv) the role of the Childrens Court;</p> <p>(h) the legal effect of adoption;</p> <p>(i) the rights and responsibilities of the parties to an adoption, including those relating to:</p>

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				<ul style="list-style-type: none"> (i) adoption plans; and (ii) access to information about, and contact with, other parties to an adoption throughout the life of the adopted person; (j) the requirement for pre-consent counselling and how it will be arranged; (k) if the child to be adopted is an Aboriginal person or Torres Strait Islander: <ul style="list-style-type: none"> (i) options other than adoption for the child's long-term care in accordance with Aboriginal tradition or Island custom; and (ii) the importance of the child being cared for in a way that: <ul style="list-style-type: none"> (A) helps the child to develop and maintain a connection with the child's Aboriginal tradition or Island custom; and (B) preserves and enhances the child's sense of Aboriginal or Torres Strait Islander identity. (2) The chief executive must arrange for the prescribed information to be explained to the parent.
			Section 24	<ul style="list-style-type: none"> (1) The chief executive must arrange for each of the child's parents to receive counselling about the prescribed information under section 23. (2) The counselling must be carried out by a counsellor

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				<p>nominated by the chief executive.</p> <p>(3) The nominated counsellor may be an officer of the department.</p> <p>(4) However, if the nominated counsellor is an officer of the department, the chief executive must:</p> <p>(a) advise the parent that he or she may ask for further counselling by someone who is not an officer of the department; and</p> <p>(b) if the parent makes a request under paragraph (a), nominate another counsellor who is not an officer of the department to carry out the further counselling.</p> <p>(5) The counselling must be carried out in a way that allows the parent to ask questions and discuss the prescribed information and matters arising from the information.</p> <p>(6) If the counsellor reasonably suspects the parent does not have capacity to consent to the adoption, the counsellor must notify the chief executive.</p> <p>(7) The counsellor may offer to meet with other persons.</p> <p><i>Example:</i></p> <p>The counsellor may offer to meet other family members to help the parent to consider other options for the child's long-term care.</p>

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				<p>(8) The counselling may be carried out in 1 or more sessions and by 1 or more counsellors.</p> <p>(9) In this section:</p> <p>'counsellor' means a person who the chief executive is satisfied has appropriate qualifications or experience to carry out counselling under this section.</p>
			Section 25	<p>(1) This section applies if the child to be adopted is an Aboriginal person or Torres Strait Islander.</p> <p>(2) The counselling under section 24 must be carried out in a way and at a place that is appropriate to Aboriginal tradition or Island custom.</p> <p>(3) The person who explains the prescribed information mentioned in section 23(1)(k):</p> <p>(a) need not be a counsellor under section 24; but</p> <p>(b) must be an appropriate Aboriginal or Torres Strait Islander person.</p> <p>(4) This section does not apply to the counselling of a parent to the extent the parent, by giving the chief executive a signed notice in the approved form, declines to receive counselling in a way, or by a person, required by this section.</p> <p>(5) The approved form for subsection (4) must state:</p>

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				<p>(a) that the chief executive has offered the parent counselling under this section; and</p> <p>(b) the extent to which the counselling is declined; and</p> <p>(c) that the chief executive has given the parent a document containing the information mentioned in subsection (3).</p>
			Section 26	The chief executive must ensure each of the child's parents is told that the parent may wish to seek legal advice and is given the details of at least 1 entity that generally provides free legal services.
			Section 27	<p>In this division:</p> <p>'qualified person' means a person who, if called as a witness in a proceeding, would be qualified to give expert evidence on the issue whether a parent has capacity to give consent to an adoption of the child.</p>
			Section 28	<p>(1) This section applies if a parent of the child is not an adult.</p> <p>(2) Before the parent may consent to the adoption, the chief executive must have a qualified person assess whether the parent has capacity to give the consent.</p> <p>(3) The qualified person must not be the same person who counsels the parent under section 24.</p>
			Section 29	(1) This section applies to an adult parent of the child if:

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				<p>(a) a counsellor under section 24 notifies the chief executive that the counsellor reasonably suspects the parent does not have capacity to consent to the adoption; or</p> <p>(b) the chief executive otherwise knows or reasonably suspects the parent does not have capacity to consent to the adoption.</p> <p>(2) Before the parent may consent to the adoption, the chief executive must apply to QCAT for a declaration about the parent's capacity to give the consent.</p> <p><i>Note:</i></p> <p>See the <i>Guardianship and Administration Act 2000</i>, section 146.</p> <p>(3) However, if the parent is not in Queensland at the time the parent's consent is proposed to be given, the chief executive must take the following steps instead of making an application under subsection (2):</p> <p>(a) if it is possible for the chief executive to make an application, equivalent to an application mentioned in subsection (2), in the jurisdiction where the parent is, the chief executive must make that application;</p> <p>(b) otherwise, the chief executive must ensure a qualified person assesses whether the parent has capacity to give the consent.</p>

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			Section 30	<p>(1) This section applies if:</p> <p>(a) QCAT makes a declaration that the parent does not have capacity to give the consent; and</p> <p>(b) the parent does not have a guardian under the <i>Guardianship and Administration Act 2000</i> for the matter of dispensation.</p> <p>(2) Before the chief executive may make an application under division 6 for an order for dispensation, the chief executive must apply to QCAT for an order appointing a guardian for the matter of the dispensation.</p> <p>(3) In this section:</p> <p>'dispensation' means dispensation with the need for the parent's consent.</p>
			Section 32	If the chief executive does not know the identity and location of the child's father, the chief executive must take reasonable steps to establish those matters.
			Section 33	<p>(1) If the chief executive knows or reasonably suspects a person is the child's father, the chief executive must give him a notice stating:</p> <p>(a) the other consent or consents to the child's adoption have been given; and</p> <p>(b) how the person may:</p>

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				<ul style="list-style-type: none"> (i) give consent; or (ii) take steps to establish whether he is the child's father; or (iii) apply under the <i>Family Law Act 1975</i> (Cwlth) for a parenting order for the child. <p>(2) Subsection (1) does not apply if the chief executive is satisfied:</p> <ul style="list-style-type: none"> (a) the person is a lineal relative of the child's mother; or (b) the child's conception was a result of an offence committed by the person; or (c) there would be an unacceptable risk of harm to the child or mother if the person were made aware of the child's birth or proposed adoption.
			Section 35	<p>(1) The chief executive, or a person who has made an application to the chief executive under part 5, may apply to the Childrens Court for an order dispensing with the need for the consent of a stated parent of the child (the 'relevant parent') to the child's adoption.</p> <p>(2) The application must state the grounds on which it is made.</p>
			Section 36	<p>(1) As soon as practicable after filing the application in the court, the applicant must serve a copy of it on the relevant parent and, if the applicant is not the chief executive, serve a</p>

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				<p>copy on the chief executive.</p> <p>(2) A served copy must state where and when the application is to be heard.</p> <p>(3) A copy served on the relevant parent must also state that the application may be heard and decided even though the relevant parent does not appear in court.</p> <p>(4) The court may dispense with the requirement to serve a copy of the application on the relevant parent if the court is satisfied of any of the following matters:</p> <p>(a) the applicant cannot establish the identity of the relevant parent after making all reasonable enquiries;</p> <p>(b) the applicant cannot locate the relevant parent after making all reasonable enquiries;</p> <p>(c) the relevant parent is a lineal relative of the child's mother;</p> <p>(d) the child's conception was a result of an offence committed by the relevant parent;</p> <p>(e) there would be an unacceptable risk of harm to the child or mother if the relevant parent were made aware of the child's birth or proposed adoption;</p> <p>(f) there are other special circumstances for giving the dispensation.</p>

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			Section 38	<p>(1) The court may hear and decide the application in the absence of the relevant parent only if:</p> <p>(a) the relevant parent has been given reasonable notice of the hearing and failed to attend or continue to attend the hearing; or</p> <p>(b) the court dispenses with the requirement to serve a copy of the application on the relevant parent under section 36(4).</p> <p>(2) Subsection (1) does not limit the court's jurisdiction to exclude a person from a proceeding.</p>
			Section 39	<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) QCAT 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 have capacity to give the consent; or</p>

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				<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 <i>Status of Children Act 1978</i>, section 10, by the relevant parent or someone else, for a declaration of paternity for the child; or</p> <p>(ii) a current application under the <i>Family Law Act 1975</i> (Cwlth) by the relevant parent for a parenting order for the</p>

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				child.
			Section 41	<p>(1) This section applies if:</p> <p>(a) the court makes an order dispensing with the need for the relevant parent’s consent (the 'dispensation order'); and</p> <p>(b) a copy of the application for the dispensation order was not served on the relevant parent.</p> <p>(2) The relevant parent or the chief executive may apply to the court to discharge the dispensation order.</p> <p>(3) The applicant must serve a copy of the application on each party to the proceeding for the dispensation order.</p> <p>(4) The court may discharge the dispensation order if:</p> <p>(a) an adoption order for the child has not been made; and</p> <p>(b) the court is satisfied the ground on which the dispensation order was made under section 39(1) does not apply.</p> <p>(5) The discharge of the dispensation order does not affect a consent given by anyone else to the child’s adoption unless the court decides otherwise.</p>
			Section 42	<p>(1) A complying interstate consent has effect for this Act as if it were given under this part.</p> <p>(2) For subsection (1), a person’s consent to the child’s</p>

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				<p>adoption is a 'complying interstate consent' if an authorised officer for another State has given the chief executive:</p> <p>(a) a notice stating that the consent was given, by signed writing, under a law of the other State and has not been revoked under that law; and</p> <p>(b) a written authorisation to make arrangements for the adoption of the child in Queensland.</p> <p>(3) In this section:</p> <p>'authorised officer', for another State, means an officer who, under the law of the State, is authorised to make arrangements for the adoption of children in the State.</p>
			Section 98	<p>(1) The chief executive must take steps to obtain the consent of each parent.</p> <p>(2) If the chief executive obtains the consent of each parent, the chief executive must assess the applicant under part 6.</p>
			Section 99	<p>(1) This section applies if the chief executive:</p> <p>(a) becomes aware that a parent does not wish to give his or her consent; or</p> <p>(b) cannot establish the identity of a parent after making all reasonable enquiries; or</p> <p>(c) cannot locate a parent after making all reasonable</p>

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				<p>enquiries.</p> <p>(2) The chief executive must notify the applicant that, for the relevant reason mentioned in subsection (1)(a) to (c), the chief executive has not obtained the consent of each parent.</p> <p>(3) Then the chief executive must not deal further with the application unless:</p> <p>(a) the chief executive becomes aware that the parent wishes to give the consent, or identifies the parent, or locates the parent, whichever is relevant; or</p> <p>(b) the applicant makes a dispensation application.</p> <p>(4) If the applicant makes a dispensation application, the chief executive may proceed to assess the applicant under part 6, pending the result of the dispensation application, as if each consent had been obtained.</p>
			Section 151	This division applies to a child if the chief executive is the child's guardian under section 57 and all consents required for the child's adoption have been given.
			Section 152	<p>(1) This division applies to a child (whether or not the child is an intercountry adoption child) if:</p> <p>(a) the chief executive selects the child's prospective adoptive parents under division 2; and</p> <p>(b) an interim order is made in favour of the prospective</p>

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				<p>adoptive parents; and</p> <p>(c) the interim order is discharged.</p> <p>(2) This division applies to an intercountry adoption child if the persons who were the child's prospective adoptive parents stop having custody of the child because:</p> <p>(a) the chief executive, as the child's guardian under a delegation from the responsible Minister under the <i>Immigration (Guardianship of Children) Act 1946</i> (Cwlth), removes the child from their custody; or</p> <p>(b) the Childrens Court makes an order under section 194(1)(a).</p> <p>(3) A reference in this section to a child's prospective adoptive parents includes, for a proposed adoption by a single person, that person.</p> <p>(4) In this section:</p> <p>'intercountry adoption child' means a child brought to Queensland from another country to be adopted under arrangements made between the chief executive and the competent authority for the other country.</p>
			Section 153	<p>(1) The chief executive must select a couple or single person from the suitable adoptive parents register to be the child's prospective adoptive parents or parent.</p> <p>(2) The chief executive must select a couple unless satisfied</p>

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				<p>that, in the particular circumstances, it would best promote the child's wellbeing and best interests to select a particular person from the suitable adoptive parents register who is a single person.</p> <p><i>Note:</i></p> <p>A single person may be selected for assessment under section 89 and subsequently entered in the suitable adoptive parents register.</p>
			Section 155	The chief executive must make the selection that will best promote the child's wellbeing and best interests.
			Section 156	<p>156 Child's particular needs</p> <p>The chief executive must have regard to the needs of the child to be adopted, including any needs relating to the following matters:</p> <ul style="list-style-type: none"> (a) the child's age and gender; (b) any Aboriginal, Torres Strait Islander or other cultural background of the child; (c) any existing or possible future medical condition or disability of the child; (d) the child's education; (e) whether the child has a sibling who has been adopted or

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				<p>is proposed to be adopted;</p> <p>(f) the child's social background.</p>
			Section 157	<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>
			Section 158	<p>(1) The chief executive must have regard to any of the characteristics of the persons the chief executive is considering selecting that are relevant to:</p> <p>(a) their willingness and ability to parent a child with the needs of the child to be adopted; or</p> <p>(b) the extent to which they meet the preferences of the child's parents being considered under section 157.</p> <p>(2) In this section:</p> <p>'characteristics', of a person, includes the matters relating to</p>

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				the person's suitability decided by the chief executive on an assessment under part 6.
			Section 160	The chief executive must have regard to the consideration that it would ordinarily be in a child's best interests to be placed with the same family as any sibling of the child who is also to be adopted or has previously been adopted.
			Section 161	<p>(1) The chief executive must have regard to the considerations that it would ordinarily be in a child's best interests:</p> <p>(a) to be the youngest child in the adoptive family, by at least 2 years, at the time of the placement; and</p> <p>(b) for no other children to join the adoptive family for at least 1 year after the placement, whether by birth, adoption, placement under the <i>Child Protection Act 1999</i> or in another way.</p> <p>(2) Subsection (1) applies to children in the adoptive family other than any sibling of the child placed with the same family.</p>
			Section 162	The chief executive must have regard to the consideration that it would ordinarily be in a child's best interests to receive full-time care, provided personally by one or both of the persons with whom the child is placed, for at least 1 year after the placement.
			Section 163	(1) This section applies if the child to be adopted is an

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				<p>Aboriginal person or Torres Strait Islander.</p> <p>(2) The chief executive must consult with an appropriate Aboriginal or Torres Strait Islander person about the selection decision.</p> <p>(3) The chief executive must give proper consideration to selecting, in order of priority:</p> <p>(a) a member of the child’s community or language group; or</p> <p>(b) another Aboriginal person or Torres Strait Islander who is compatible with the child’s community or language group; or</p> <p>(c) another Aboriginal person or Torres Strait Islander.</p> <p>(4) This section does not limit the application of the other provisions of this division to the selection of prospective adoptive parents for the child.</p>
			Section 165	<p>(1) An adoption plan is a written plan, agreed to by the parties to the plan, about anything relating to the adopted child’s wellbeing or interests.</p> <p>(2) An adoption plan may, for example, address any of the following matters:</p> <p>(a) the degree of openness there will be in the adoption, including:</p>

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				<p>(i) when a party will communicate with another party; and</p> <p>(ii) how a party will communicate with another party, including whether the communication will be through the mailbox service or in another way that does not identify the first party; and</p> <p>(iii) the matters about which information will be exchanged;</p> <p><i>Examples of matters about which information may be exchanged:</i></p> <ul style="list-style-type: none"> • the child’s development; • important events in the child’s life; • a medical condition of the child; and • the medical history of the child’s biological family. <p>(b) the adoptive parents’ commitment to telling the child about the adoption and helping the child understand the circumstances of the adoption;</p> <p>(c) if the child is an Aboriginal or Torres Strait Islander child, how the adoptive parents will:</p> <p>(i) help the child to maintain contact with the child’s community or language group; and</p> <p>(ii) help the child to develop and maintain a connection with the child’s Aboriginal tradition or Island custom; and</p>

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				<p>(iii) preserve and enhance the child’s sense of Aboriginal or Torres Strait Islander identity;</p> <p>(d) if the child has a particular ethnic or other cultural background, how the adoptive parents will:</p> <p>(i) help the child to maintain contact with the child’s community or language group; and</p> <p>(ii) help the child to develop and maintain a connection with the child’s ethnicity or culture; and</p> <p>(iii) preserve and enhance the child’s sense of ethnic or cultural identity.</p>
			Section 166	<p>(1) The parties to an adoption plan are the prospective adoptive parents or adoptive parents and any birth parent who wishes to be a party.</p> <p>(2) The parties to an adoption plan may also include:</p> <p>(a) the child, if the chief executive considers it would be appropriate having regard to all the circumstances including the child’s age and maturity; or</p> <p>(b) a representative for the child; or</p> <p>(c) for an intercountry adoption - the competent authority for the relevant country, the chief executive or another appropriate entity.</p> <p>(3) The chief executive (child safety) must be a party to an</p>

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				adoption plan required under section 171. (4) If no birth parent wishes to be a party to an adoption plan required under section 172, the chief executive must be a party to the plan.
			Section 167	<p>The purpose of an adoption plan is to contribute to the success of the adoption by ensuring parties to the adoption:</p> <p>(a) properly consider:</p> <p>(i) the matters that may affect the child’s wellbeing and interests; and</p> <p>(ii) the consequences of entering into the particular arrangements for the adoption (for example, the degree of openness); and</p> <p>(b) commit to practical ways to address the matters mentioned in paragraph (a).</p>
			Section 168	<p>(1) An adoption plan:</p> <p>(a) is not enforceable; and</p> <p>(b) does not limit the primary responsibility of the adoptive parents for the child’s upbringing; and</p> <p>(c) does not entitle a member of the child’s birth family or anyone else to interfere in the child’s upbringing or the relationship between the child and adoptive parents.</p> <p>(2) An adoption plan may not include anything that purports to prevent, restrict or otherwise control the movement of a</p>

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				party. (3) An adoption plan has no effect once the child becomes an adult.
			Section 169	(1) On request by the parties to a proposed adoption or adoption, the chief executive must help them to prepare an adoption plan, for example, by making an officer of the department available to act as an intermediary. (2) If an adoption plan is required under section 172, the chief executive must arrange for an appropriate Aboriginal or Torres Strait Islander person to be available to help the parties to prepare the plan.
			Section 170	(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. (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 contact.
			Section 171	(1) This section applies if a child protection order is, or has been, in force for the child. (2) An adoption plan must be agreed to that addresses the matters stated in section 165(2)(a).

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			Section 172	<p>(1) This section applies if the child is an Aboriginal or Torres Strait Islander child and the prospective adoptive parents are not from the child's community or language group.</p> <p>(2) An adoption plan must be agreed to that addresses the matters stated in section 165(2)(c).</p>
			Section 173	Unless required under sections 170 to 172, an adoption plan need not be prepared.
			Section 174	On an application under this part, the Childrens Court may make an adoption order for the adoption of a child by the person or persons named in the application.
			Section 175	<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;</p>

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				<p>(b) a document, sworn by a counsellor, stating that the counsellor counselled the parent under section 24 on a stated day or days; (c) if the parent is not an adult or section 29(3)(b) applies - a document, sworn by a qualified person, stating that:</p> <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;</p> <p>(d) if section 29(2) applies to the parent - a declaration by QCAT that the parent has capacity to give the consent;</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>
			Section 178	<p>(1) This section applies if the child is in the custody or guardianship of the chief executive (child safety) or someone else under the <i>Child Protection Act 1999</i>.</p>

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				(2) The court must not make an adoption order unless a document, signed by the chief executive (child safety), is produced to the court stating that the chief executive (child safety) considers the adoption is an appropriate way of meeting the child's need for long-term stable care.
			Section 178	<p>(1) This section applies in relation to a child who is able to form and express views about his or her adoption.</p> <p>(2) The court must consider the child's views before deciding whether to make an adoption order for the child.</p> <p><i>Note:</i></p> <p>Under sections 235 and 236, someone may be appointed to give separate legal representation or support to the child.</p> <p>(3) For an adoption other than an intercountry adoption, the court may make an adoption order only if the following documents have been produced to the court:</p> <p>(a) a document, sworn by an officer of the department, stating that the officer gave the information under section 44 to the child on a stated day;</p> <p>(b) a document, sworn by a counsellor under section 45, stating that the counsellor counselled the child under that section on a stated day or days.</p> <p>(4) Subsection (3) does not apply to the making of a final adoption order if an interim order is already in force for the</p>

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			Section 183	<p>child.</p> <p>(1) The court may make an interim order only if it is satisfied of the following matters:</p> <p>(a) the child is present in Queensland;</p> <p>(b) the proposed order will promote the child’s wellbeing and best interests;</p> <p>(c) the chief executive selected the prospective adoptive parents in compliance with part 7, division 2;</p> <p>(d) each of the prospective adoptive parents:</p> <p>(i) is an adult; and</p> <p>(ii) is an Australian citizen or has a spouse who is an Australian citizen; and</p> <p>(iii) is resident or domiciled in Queensland; and</p> <p>(iv) is suitable, having regard to the matters stated in part 6, division 5;</p> <p>(e) for a female prospective adoptive parent, she is not pregnant;</p> <p>(f) any adoption plan required under part 8, division 2:</p> <p>(i) has been agreed; or</p>

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				<p>(ii) has been substantially developed.</p> <p>(2) This section does not apply if the prospective adoptive parents are habitually resident in a convention country.</p> <p><i>Note:</i></p> <p>For the matters applying if the prospective adoptive parents are habitually resident in a convention country, see section 213.</p>
			Section 186	<p>(1) The chief executive may apply to the Childrens Court to discharge an interim order.</p> <p>(2) The chief executive must serve a copy of the application on the prospective adoptive parents.</p> <p>(3) The court may discharge an interim order for a child:</p> <p>(a) on an application under subsection (1); or</p> <p>(b) on an application under section 187 for a final adoption order for the child.</p> <p>(4) The court may discharge the interim order if satisfied it would be contrary to the child's wellbeing or best interests to be adopted by the prospective adoptive parents, having regard to the relevant matters.</p> <p>(5) Also, on an application under section 187 for a final adoption order, the court may discharge the interim order if</p>

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				<p>the court:</p> <ul style="list-style-type: none"> (a) is not satisfied of the relevant matters; and (b) considers the relevant matters are not likely to be satisfied within an appropriate time. <p>(6) The discharge of an interim order does not affect the chief executive's guardianship of the child.</p> <p>(7) In this section:</p> <p>'relevant matters' means the matters under section 189 of which the court must be satisfied before it may make a final adoption order.</p>
			Section 189	<p>(1) The court may make a final adoption order for the child only if it is satisfied of the following matters:</p> <ul style="list-style-type: none"> (a) the child is present in Queensland; (b) the proposed order will promote the child's wellbeing and best interests; (c) each of the prospective adoptive parents: <ul style="list-style-type: none"> (i) is an adult; and (ii) is an Australian citizen or has a spouse who is an Australian citizen; and (iii) is resident or domiciled in Queensland; and

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				<p>(iv) is suitable, having regard to the matters stated in part 6, division 5;</p> <p>(d) any adoption plan required under part 8, division 2 has been agreed;</p> <p>(e) while the child has been in their custody, the prospective adoptive parents have demonstrated:</p> <p>(i) their willingness and ability to meet the child’s needs; and</p> <p>(ii) their commitment to any adoption plan mentioned in paragraph (d); and</p> <p>(iii) if the child has a particular ethnic or other cultural background, their willingness and ability to:</p> <p>(A) help the child to maintain contact with the child’s community or language group; and</p> <p>(B) help the child to develop and maintain a connection with the child’s ethnicity or culture; and</p> <p>(C) preserve and enhance the child’s sense of ethnic or cultural identity.</p> <p>(2) Also, if an interim order is not in force for the child, the court must be satisfied that the chief executive selected the prospective adoptive parents in compliance with part 7, division 2.</p> <p>(3) This section does not apply if the prospective adoptive</p>

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				<p>parent is a person habitually resident in a convention country.</p> <p><i>Note:</i></p> <p>For the matters applying if the prospective adoptive parents are habitually resident in a convention country, see section 213.</p>
			Section 191	<p>This division applies if:</p> <p>(a) a child is brought to Queensland from another country to be adopted under arrangements made between the chief executive and the competent authority for the other country; and</p> <p>(b) the child's prospective adoptive parents, whose names were on the suitable adoptive parents register, were selected:</p> <p>(i) by the competent authority, under the arrangements; or</p> <p>(ii) by the chief executive, in the circumstances mentioned in section 152(2).</p>
			Section 192	<p>(1) This section applies if there is no guardian of the child under the <i>Immigration (Guardianship of Children) Act 1946</i> (Cwlth).</p> <p>(2) From the child's arrival in Queensland:</p> <p>(a) the chief executive has guardianship of the child; and</p> <p>(b) the prospective adoptive parents have custody of the</p>

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				child, subject to an order under section 194.
			Section 193	<p>(1) This section applies if an interim order is made in favour of the prospective adoptive parents under this division.</p> <p>(2) While the interim order is in force, the prospective adoptive parents have custody of the child. (3) The interim order does not affect the chief executive's guardianship of the child.</p>
			Section 194	<p>(1) The chief executive may apply to the Childrens Court for either of the following orders:</p> <p>(a) if the child is in the custody of the prospective adoptive parents under section 192 - an order ending their custody of the child; or</p> <p>(b) if an interim order in favour of the prospective adoptive parents is in force under this division - an order discharging the interim order.</p> <p>(2) The chief executive must serve a copy of the application on the prospective adoptive parents.</p> <p>(3) The court may make the relevant order if satisfied it would be contrary to the child's wellbeing or best interests to be adopted by the prospective adoptive parents, having regard to the relevant matters.</p> <p><i>Note:</i></p> <p>The court may also make an order discharging the interim</p>

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				<p>order under section 201.</p> <p>(4) An order under this section does not affect the chief executive's guardianship of the child.</p> <p>(5) In this section:</p> <p>'relevant matters' means the matters under section 200 of which the court must be satisfied before it may make a final adoption order.</p>
			Section 195	<p>(1) This section applies if:</p> <p>(a) the Childrens Court makes an order under section 194(1); and(b) the chief executive selects new prospective adoptive parents from the suitable adoptive parents register.</p> <p><i>Note:</i></p> <p>See section 152(2).</p> <p>(2) The chief executive may apply to the Childrens Court for an interim order for the adoption of the child by the prospective adoptive parents.</p> <p>(3) The chief executive must serve a copy of the application on the prospective adoptive parents and the competent authority.</p> <p>(4) The prospective adoptive parents are respondents in the proceeding.</p>

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			Section 196	<p>The court may make an interim order only if it is satisfied of the following matters:</p> <ul style="list-style-type: none"> (a) the child is present in Queensland; (b) the child is not prevented from residing permanently in Australia: <ul style="list-style-type: none"> (i) under a law of the Commonwealth or a State; or (ii) by an order of a court of the Commonwealth or a State; (c) the competent authority has advised the chief executive that arrangements for the adoption have been made: <ul style="list-style-type: none"> (i) under the law of the country; and (ii) if the country is a convention country, under the Hague convention; (d) the competent authority for the country has agreed to the adoption; (e) the proposed adoption order will promote the child's wellbeing and best interests; (f) if the prospective adoptive parents were selected by the chief executive, they were selected in compliance with part 7, division 2; (g) each of the prospective adoptive parents: <ul style="list-style-type: none"> (i) is an adult; and (ii) is an Australian citizen or has a spouse who is an

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				<p>Australian citizen; and</p> <p>(iii) is resident or domiciled in Queensland; and</p> <p>(iv) is suitable, having regard to the matters stated in part 6, division 5;</p> <p>(h) for a female prospective adoptive parent, she is not pregnant.</p>
			Section 199	<p>(1) This section applies if the child has been in the custody of the prospective adoptive parents, for at least 1 year, as mentioned in section 198(1).</p> <p>(2) The chief executive may apply to the Childrens Court for a final adoption order for the adoption of the child by the prospective adoptive parents.</p> <p>(3) The chief executive must serve a copy of the application on the prospective adoptive parents.</p> <p>(4) The prospective adoptive parents may apply to the court for a final adoption order if:</p> <p>(a) the child has been in their custody, as mentioned in section 198(1), for at least 1 year and 30 days; and</p> <p>(b) the chief executive has neither applied for a final adoption order nor applied for an order under section 194.</p> <p>(5) If the prospective adoptive parents apply for a final adoption order, they must serve a copy of the application on</p>

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				<p>the chief executive.</p> <p>(6) A person served with a copy of the application under subsection (3) or (5) is a respondent in the proceeding.</p>
			Section 200	<p>The court may make a final adoption order only if it is satisfied of the following matters:</p> <p>(a) the child is present in Queensland; (b) the child is not prevented from residing permanently in Australia:</p> <p>(i) under a law of the Commonwealth or a State; or</p> <p>(ii) by an order of a court of the Commonwealth or a State;</p> <p>(c) the competent authority has advised the chief executive that arrangements for the adoption have been made:</p> <p>(i) under the law of the country; and</p> <p>(ii) if the country is a convention country, under the Hague convention;</p> <p>(d) the competent authority for the country has agreed to the adoption;</p> <p>(e) the proposed adoption order will promote the child's wellbeing and best interests;</p> <p>(f) each of the prospective adoptive parents:</p> <p>(i) is an adult; and</p>

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				<p>(ii) is an Australian citizen or has a spouse who is an Australian citizen; and</p> <p>(iii) is resident or domiciled in Queensland; and</p> <p>(iv) is suitable, having regard to the matters stated in part 6, division 5;</p> <p>(g) while the child has been in their custody, the prospective adoptive parents have demonstrated:</p> <p>(i) their willingness and ability to meet the child’s needs; and</p> <p>(ii) if the child has a particular ethnic or other cultural background, their willingness and ability to:</p> <p>(A) help the child to maintain contact with the child’s community or language group; and</p> <p>(B) help the child to develop and maintain a connection with the child’s ethnicity or culture; and</p> <p>(C) preserve and enhance the child’s sense of ethnic or cultural identity.</p>
			Section 201	<p>(1) This section applies if, on an application for a final adoption order, the court is not satisfied of the relevant matters and considers the relevant matters are not likely to be satisfied within an appropriate time.</p> <p>(2) The court may make an order discharging the interim</p>

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				<p>order in favour of the prospective adoptive parents.</p> <p>(3) In this section:</p> <p>'relevant matters' means the matters under section 200 of which the court must be satisfied before it may make a final adoption order.</p>
			Section 202	<p>As soon as practicable after an adoption order is made, the chief executive must:</p> <p>(a) give to the parties to the proceeding:</p> <p>(i) a copy of the order; and</p> <p>(ii) a notice explaining the terms and effect of the order; and</p> <p>(b) give a copy of the order to the competent authority.</p>
			Section 204	<p>(1) This section applies if a person (the 'step-parent'):</p> <p>(a) has made an application under part 5, division 1; and</p> <p>(b) has been assessed as suitable under part 6; and</p> <p>(c) has received, from the chief executive, a suitability report for the proposed adoption.</p> <p>(2) The step-parent may apply to the Childrens Court for a final adoption order for the adoption of the child by the step-parent.</p> <p>(3) The application must be made jointly with the step-</p>

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				parent's spouse.
			Section 208	<p>The court may make a final adoption order only if it is satisfied of the following matters:</p> <ul style="list-style-type: none"> (a) the child is present in Queensland; (b) the step-parent: <ul style="list-style-type: none"> (i) is an adult; and (ii) is resident or domiciled in Queensland; (c) the step-parent or his or her spouse is an Australian citizen; and (d) the step-parent is suitable, having regard to the matters stated in part 6, division 5; (e) an order for the child's adoption by the step-parent would better promote the child's wellbeing and best interests than an order under the <i>Family Law Act 1975</i> (Cwlth), any other court order or no court order; (f) there are exceptional circumstances that warrant the making of the order.
			Section 210	This division applies to an adoption order under division 2 if the prospective adoptive parents are habitually resident in a convention country.
			Section 211	Despite section 181, an adoption order may be made under

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				division 2 even if the prospective adoptive parents are not selected under part 7.
			Section 212	Despite section 187(1), an application for a final adoption order may be made under that section whether or not an interim order is in force and whether or not the child has been in the custody of the prospective adoptive parents for at least 1 year.
			Section 213	<p>The court may make an adoption order only if it is satisfied of the following matters:</p> <ul style="list-style-type: none"> (a) the child is present in Queensland; (b) the child is not prevented from leaving Australia: <ul style="list-style-type: none"> (i) under a law of the Commonwealth or a State; or (ii) by an order of a court of the Commonwealth or a State; (c) arrangements for the adoption have been made under the Hague convention and under the law of the convention country; (d) the competent authority for the country has agreed to the adoption; (e) the child is not prevented by a law of the convention country from residing permanently in that country; (f) each of the prospective adoptive parents is an adult; (g) the proposed order will promote the child's wellbeing

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				and best interests.
			Section 214	<p>(1) This section applies on the making of a final adoption order for the adoption of a child (the '<i>adopted child</i>') by a person (the '<i>adoptive parent</i>').</p> <p>(2) The adopted child becomes a child of the adoptive parent and the adoptive parent becomes a parent of the adopted child.</p> <p>(3) The adopted child stops being a child of a former parent and a former parent stops being a parent of the adopted child.</p> <p>(4) Other relationships are determined in accordance with subsections (2) and (3).</p> <p>(5) A former guardian stops being a guardian of the adopted child.</p> <p>(6) A former adoption order stops having effect.</p> <p>(7) Despite subsections (3) to (6), if the final adoption order is for the adopted child's adoption by the spouse of a parent of the adopted child, the relationship between the adopted child and that parent is not affected.</p> <p>(8) Also despite subsections (3) to (6), for the purpose of a law relating to a sexual offence for which relationships are relevant, a former relationship continues, despite the final adoption order, in addition to other relationships created by the order.</p>

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				<p>(9) This section applies subject to another law that expressly distinguishes between adopted children and other children.</p> <p>(10) In this section:</p> <p>'former adoption order' means an order for the adoption of the adopted child, made under this Act or another law of Queensland or another jurisdiction, in force immediately before the making of the final adoption order.</p> <p>'former guardian' means a person who was a guardian of the adopted child immediately before the making of the final adoption order.</p> <p>'former parent' means a person who was a parent of the adopted child immediately before the making of the final adoption order.</p> <p>'former relationship' means a relationship between the adopted child and another person that existed immediately before the making of the final adoption order.</p> <p><i>Note:</i></p> <p>This section deals with the legal effect of a final adoption order on an adopted child's relationship to other persons. See section 6(2)(j) for a guiding principle about the continuance of emotional connections and interactions with birth family members.</p>
			Section 215	(1) A final adoption order for a child may include:

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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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			Section 219	<p>(1) A final adoption order may be discharged on any of the following grounds:</p> <p>(a) the order was made or something was done for the purpose of making the order:</p> <p>(i) because of a false or misleading document or representation; or</p> <p>(ii) because a person acted fraudulently or used undue influence on another person; or</p> <p>(iii) in another improper way;</p> <p>(b) a consent required for the adoption was not given freely and voluntarily by a person with capacity to give the consent;</p> <p>(c) there are other exceptional circumstances that warrant the discharge.</p> <p>(2) For this section, a person used 'undue influence' on another person if the first person:</p> <p>(a) used or threatened to use force or restraint against the other person; or</p> <p>(b) caused or threatened to cause injury to the other person; or</p> <p>(c) caused or threatened to cause any other detriment to the other person.</p>

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			Section 225	<p>(1) The court may discharge the final adoption order only if satisfied of a ground mentioned in section 219.</p> <p>(2) If the applicant is not the adopted person, the court must not discharge the order if it considers the discharge is likely to be contrary to the adopted person's wellbeing and best interests.</p> <p>(3) The order may be discharged even if the adopted person is an adult.</p> <p>(4) If the adopted person is a child and has any views about the proposed discharge and is able to express the views, having regard to the child's age or ability to understand, the court must consider the views.</p> <p>(5) If the court makes an order discharging the final adoption order, it may also make any other order it considers appropriate in the interests of justice or to ensure the adopted person's wellbeing and best interests including, for example, an order about:</p> <p>(a) the ownership of property; or</p> <p>(b) the adopted person's name; or(c) if the adopted person is a child, custody or guardianship of the child.</p>
			Section 229	In exercising its jurisdiction or powers, the Childrens Court must regard the wellbeing and best interests of the child as paramount.

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			Section 235	<p>(1) This section applies in a proceeding on an application for an order under this Act.</p> <p>(2) If the Childrens Court considers it is in the child's best interests for the child to be separately represented by a lawyer, the court may:</p> <p>(a) order that the child be separately represented by a lawyer; and</p> <p>(b) make the other orders it considers necessary to secure the child's separate legal representation.</p> <p>(3) Without limiting subsection (2), the court must consider making orders about the child's separate legal representation if:</p> <p>(a) the application for the order is contested by a birth parent; or</p> <p>(b) the child opposes the application; or</p> <p>(c) the application for the order is made under part 9, division 4; or</p> <p>(d) the child is or was a child in the child safety system within the meaning given by the Commission for Children Act, section 13.</p> <p>(4) The lawyer must:</p> <p>(a) act in the child's best interests regardless of any</p>

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				<p>instructions from the child; and</p> <p>(b) as far as possible, present the child's views and wishes to the court.</p> <p>(5) In this section:</p> <p>'child' means:</p> <p>(a) the child whom it is proposed to adopt; and</p> <p>(b) any birth parent who is not an adult.</p>
			Section 236	<p>(1) In a proceeding on an application for an adoption order, the Childrens Court may order the chief executive to appoint a qualified person to support the child if the court considers it is necessary in the child's best interests.</p> <p>(2) In this section:</p> <p>'qualified person' see section 47(2).</p>
			Section 237	<p>(1) A lawyer may represent more than 1 child in the same proceeding.</p> <p>(2) However, if the court considers a lawyer should not represent more than 1 child because of a conflict of interest, or a possible conflict of interest, the court may order that a child be represented by another lawyer.</p>
			Section 238	<p>(1) In a proceeding, a child may only be called to give evidence with the leave of the Childrens Court.</p>

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				<p>(2) The court may grant leave only if the child:</p> <ul style="list-style-type: none"> (a) is at least 12 years; and (b) is represented by a lawyer; and (c) agrees to give evidence. <p>(3) If the child gives evidence, he or she may be cross-examined only with the leave of the court.</p>
			Section 256	<p>(1) Either of the following persons (the 'applicant') may ask the chief executive for pre-adoption information about the adopted child:</p> <ul style="list-style-type: none"> (a) an adoptive parent of the adopted child; (b) the adopted child, but only with the consent of an adoptive parent. <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>

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				<p>(a) the adopted child's name before the adoption;</p> <p>(b) a prescribed document;</p> <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; (ii) the birth parent's date of birth;</p> <p>(iii) the birth parent's last known name and address;</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;</p> <p>(ii) the person's name immediately after the person's adoption;</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</p>

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				(4)(d)(iii) but the person does not have capacity to consent, a guardian or adult relative of the person may give the consent.
			Section 257	<p>(1) A birth parent of the adopted child may ask the chief executive for information about the adopted child.</p> <p>(2) The chief executive may give information in compliance with the request only if:</p> <p>(a) written consent is given by an adoptive parent of the child; and</p> <p>(b) the chief executive has considered the adopted child's views, if the child is able to form and express views; and</p> <p>(c) the chief executive is satisfied that giving the information is not likely to be contrary to the child's wellbeing and best interests.</p> <p>(3) An adoptive parent is taken to have given consent for subsection (2) if the adoptive parent has asked for, or given consent for the adopted child to ask for, information about the birth parent under section 256 and information was given under that section.</p> <p>(4) Subject to subsection (2), the chief executive must comply with the request by giving the birth parent any of the following held by the chief executive:</p> <p>(a) in relation to the adopted child:</p>

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				<p>(i) his or her name immediately after the adoption;</p> <p>(ii) his or her last known name and address;</p> <p>(b) the name, at the time of the adoption, of an adoptive parent of the adopted child;</p> <p>(c) a prescribed document.</p> <p>(5) If an adoptive parent gives consent, it may relate to all the information under subsection (4) or to all the information other than the adopted child's last known name and address.</p> <p>(6) If the adopted child no longer has an adoptive parent, a parent of the child at the time the request is made may give the consent.</p> <p>(7) If an adoptive parent of the child does not have capacity to consent to the information being given, a guardian of the adoptive parent or a parent of the child at the time the request is made may give the consent.</p> <p>(8) If a birth parent of the adopted child has died, an adult relative of the birth parent may make a request under subsection (1) in place of the birth parent.</p> <p>(9) If a birth parent of the adopted child does not have capacity to ask for information, a guardian or adult relative of the birth parent may make a request under subsection (1) in place of the birth parent.</p>

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				(10) In this section: 'parent', of a child, includes the chief executive (child safety), or a corresponding officer in another jurisdiction, who is a guardian of the child.
			Section 258	(1) This section applies if a person's consent is required under this division. (2) The chief executive must take steps to contact the person and ask if the person wishes to give the consent. (3) Subsection (2) does not apply to a person who the chief executive is aware does not wish to give the consent or to be contacted for the purpose of asking for the consent.
			Section 259	(1) The chief executive must provide the information, support or counselling that the chief executive considers appropriate to persons seeking information and persons whose consent to the disclosure of information is sought. (2) The purpose of providing the information, support or counselling to a person is to help the person decide whether to seek the information, or consent to the disclosure of the information, at that time. (3) The information that the chief executive may give to a person making a decision mentioned in subsection (2) includes personal information about another person that may influence the decision.

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			Section 260	<p>(1) A person may give an information consent or non-contact request to the chief executive by signing an adoption plan that includes the consent or request and giving a copy of the plan to the chief executive.</p> <p>(2) Subsection (1) does not limit the ways a person may give an information consent or non-contact request to the chief executive.</p> <p>(3) In this section:</p> <p>'information consent', of a person, means the person's consent to the giving of information under this division.</p> <p>'non-contact request', by a person, means a request to the chief executive not to contact the person for the purpose of asking the person if he or she wishes to consent to the giving of information under this division.</p>
			Section 262	This division applies in relation to an adopted person who is an adult.
			Section 263	<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;</p>

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				<p>(b) a prescribed document;</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;</p> <p>(ii) the birth parent's date of birth;</p> <p>(iii) the birth parent's last known name and address, but only with his or her written consent;</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 first adopted person:</p> <p>(i) the person's date of birth;</p> <p>(ii) the person's name immediately after the person's adoption;</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>

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			Section 264	<p>(1) This section applies if the adopted person has died or does not have capacity to ask for information.</p> <p>(2) An adult relative of the adopted person may make a request under section 263 for pre-adoption information about the adopted person.</p>
			Section 265	<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 executive:</p> <p>(a) in relation to the adopted person:</p> <p>(i) the person's name immediately after the adoption;</p> <p>(ii) the person's last known name and address, but only with the person's written consent;</p> <p>(b) the name, at the time of the adoption, of an adoptive parent of the adopted person;</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</p>

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				required under subsection (2)(a)(ii).
			Section 266	<p>(1) This section applies if a birth parent of an adopted person has died or does not have capacity to ask for information.</p> <p>(2) An adult relative of the birth parent may make a request under section 265 for information about the adopted person.</p>
			Section 267	<p>(1) An adult person (the 'applicant') may ask the chief executive for information about the adopted person if:</p> <p>(a) the applicant would be a sibling of the adopted person if the adoption had not happened; and</p> <p>(b) the applicant is not also an adopted person.</p> <p>(2) The chief executive may give information in compliance with the request only if written consent is given by the adopted person.</p> <p>(3) The chief executive must not give information in compliance with the request if:</p> <p>(a) the adoption happened before 1 June 1991; and</p> <p>(b) a birth parent of the adopted person has made a contact statement that the birth parent does not wish to be contacted by the adopted person.</p> <p>(4) Subject to subsections (2) and (3), the chief executive must comply with the request by giving the person any of the</p>

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				<p>following held by the chief executive:</p> <ul style="list-style-type: none"> (a) the adopted person's date of birth; (b) the adopted person's last known name and address; and (c) a prescribed document. <p>(5) If an adopted person gives consent, it may relate to all the information under subsection (4) or to all the information other than the adopted person's last known name and address.</p> <p>(6) If an adopted person has died, an adult relative of the person may give the consent.</p> <p>(7) If an adopted person does not have capacity to consent, a guardian or adult relative of the person may give the consent.</p>
			Section 269	<p>(1) An adopted person who is at least 17 years and 6 months old, or a birth parent of an adopted person, may give the chief executive a signed document in the approved form (a 'contact statement') stating the person's wish about being contacted by another stated person who may ask for information about the person under division 3.</p> <p>(2) A contact statement may state that:</p> <ul style="list-style-type: none"> (a) the person does not wish to be contacted by another stated person; or (b) the person wishes any contact with another stated person

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				<p>to happen only in a stated way.</p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> • contact is to happen only by telephone • in-person contact is to happen only at a neutral place in the presence of a mediator. <p>(3) A contact statement may also state the person’s wishes about being contacted by the chief executive in relation to giving consent to the disclosure of information about the person under division 2 or 3.</p>
			Section 270	<p>(1) This section applies if:</p> <p>(a) a person (the 'applicant') asks the chief executive, under division 3, for information about another person (the 'second person') who is an adopted person or a birth parent of an adopted person; and</p> <p>(b) the second person has given the chief executive a contact statement concerning contact with the applicant; and</p> <p>(c) the adoption happened on or after 1 June 1991.</p> <p>(2) Before giving any of the requested information to the applicant, the chief executive must pass on to the applicant:</p> <p>(a) the contents of the contact statement; and</p> <p>(b) if the contact statement is that the second person does not</p>

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				<p>wish to be contacted by the applicant:</p> <p>(i) the explanation for that wish (except to the extent that the chief executive knows the second person does not want the explanation to be passed on); or</p> <p>(ii) if the chief executive is not aware of the explanation, reasons that are typically given by persons who do not wish to be contacted.</p>
			Section 271	<p>(1) This section applies if:</p> <p>(a) a person (the 'applicant') asks the chief executive, under division 3, for information about another person (the 'second person') who is an adopted person or a birth parent of an adopted person; and</p> <p>(b) the second person has given the chief executive a contact statement concerning contact with the applicant; and</p> <p>(c) the adoption happened before 1 June 1991.</p> <p>(2) Before giving any of the requested information to the applicant, the chief executive must pass on the contents of the contact statement to the applicant.</p> <p>(3) If the contact statement is that the second person does not wish to be contacted by the applicant, the chief executive must not give any of the requested information about the second person to the applicant unless:</p> <p>(a) a qualified officer speaks with the applicant, in person or</p>

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				<p>by telephone, to:</p> <ul style="list-style-type: none"> (i) advise of the second person's wish not to be contacted; and (ii) pass on the explanation for the second person's wish not to be contacted (except to the extent that the chief executive knows the second person does not want the explanation to be passed on) or, if the chief executive is not aware of the explanation, reasons that are typically given by persons who do not wish to be contacted; and (iii) explain the offence under section 272; and <p>(b) the applicant gives the chief executive a signed statement, in the approved form, that:</p> <ul style="list-style-type: none"> (i) on a stated day, a qualified officer spoke with the applicant about the matters stated in paragraph (a); and (ii) the applicant acknowledges: <ul style="list-style-type: none"> (A) the second person's wish not to be contacted; and (B) that it is an offence for the applicant to do a thing stated in section 272(1)(d) in the circumstances stated in that section. <p>(4) If the chief executive considers it appropriate, the chief executive may delay giving the applicant the requested information for the reasonable period required for the chief</p>

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				<p>executive to:</p> <p>(a) advise the second person that the applicant has asked the chief executive for the information; and</p> <p>(b) offer the second person an opportunity to give the chief executive information, or further information, about why the second person does not wish to be contacted by the applicant; and</p> <p>(c) if information is given under paragraph (b), pass it on to the applicant to help the applicant better understand the second person's wishes about contact.</p> <p>(5) The chief executive may offer the applicant or second person other information, counselling or support that the chief executive considers appropriate (before or after the chief executive discloses the information).</p> <p>(6) In this section:</p> <p>'qualified officer' means an officer of the department who the chief executive is satisfied has appropriate qualifications or experience to carry out interviews under this section.</p> <p>'telephone' includes any technology allowing reasonably contemporaneous and continuous communication between 2 or more persons.</p>
			Section 276	(1) The chief executive may contact a biological parent of an adopted person for the purpose of obtaining information about the medical history of the biological parent or another

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				<p>biological relative of the adopted person.</p> <p>(2) The chief executive may disclose, to an adopted person, information about the medical history of a biological relative of the adopted person.</p> <p>(3) The chief executive may disclose, to a biological relative of an adopted person, information about the adopted person's medical history that relates to a condition that may have been inherited from a biological relative.</p> <p>(4) The chief executive may disclose information to a person that is likely to identify an adopted person or biological relative only if:</p> <p>(a) the chief executive:</p> <p>(i) could give the information to the person on a request under this part; and</p> <p>(ii) has not been asked by the biological relative or adopted person not to disclose the information; or</p> <p>(b) the chief executive is satisfied there is an unacceptable risk that a person's health may be significantly adversely affected if the information is not given or there are other exceptional circumstances in which the disclosure is justified.</p> <p>(5) It does not matter for this section whether a person who is contacted, or to whom information is given, or to whom information relates, is a person who has made a contact</p>

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				<p>statement not to be contacted.</p> <p>(6) At the request of a person who is an adopted person or biological relative of an adopted person, the chief executive may, instead of giving the information to the person, give the information to a medical practitioner nominated by the person.</p> <p>(7) Information that may be given to an adopted person under this section may, for an adopted person who is a child, be given to a parent of the adopted person.</p> <p>(8) A person is not required to give or receive information under this section.</p> <p>(9) In this section: 'biological relative', of an adopted person, means: (a) a biological parent of the adopted person; or (b) another person related to the adopted person other than a person related only because of a marriage.</p>
			Section 277	<p>(1) This section applies to an intercountry adoption if the relevant competent authority or a birth family member has given information or a document to the chief executive for the purpose of giving it to the adopted person or his or her adoptive parents.</p> <p>(2) If the information or document is for the adoptive parents, the chief executive must give it to the adoptive</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>parents.</p> <p>(3) If the information or document is for the adopted person, the chief executive must, subject to any instructions from the competent authority or birth family member, give the information or document:</p> <p>(a) if the adopted person is a child - to the adoptive parents; or</p> <p>(b) if the adopted person is an adult - to the adopted person.</p>
			Section 278	<p>(1) The 'mailbox service' is a service conducted by the chief executive to enable parties to an adoption and other particular persons to exchange information.</p> <p>(2) The information may be:</p> <p>(a) non-identifying, where the persons:</p> <p>(i) would not otherwise be able to exchange the information because of this part; or</p> <p>(ii) are able to obtain identifying information about each other but choose to communicate on a non-identifying basis; or</p> <p>(b) identifying, where the persons have identifying information about each other and choose to use the service to exchange information.</p>

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			Section 280	<p>(1) A party to an adoption may take part in the mailbox service.</p> <p>(2) However, while an adopted person is a child, he or she may take part only with the written consent of an adoptive parent.</p> <p>(3) An adult relative of a birth parent who is not a party to the adoption may take part if the birth parent gives consent, does not have capacity to give consent or has died.</p> <p>(4) A consent under this section may be limited to exchanging non-identifying information.</p>
			Section 284	<p>(1) A participant (the 'sender') may give a document to the chief executive to pass on to another participant (the 'addressee').</p> <p>(2) Unless, under section 282, the sender may exchange identifying information with the addressee, the chief executive must review the document to ensure it contains only non-identifying information.</p> <p>(3) The chief executive must also review the document to ensure it does not contain anything the chief executive considers:</p> <p>(a) may be distressing for the addressee; or</p> <p>(b) is abusive, offensive or intended to intimidate, harass or threaten the addressee ('concerning matter').</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 292	<p>(1) This section applies to an adoption granted in a convention country if:</p> <p>(a) when the adoption is granted:</p> <p>(i) the adopted child is habitually resident in a convention country; and</p> <p>(ii) the adoptive parent is habitually resident in a convention country, Australia or New Zealand; and</p> <p>(b) an adoption compliance certificate, issued in the convention country in which the adoption is granted, is in force for the adoption.</p> <p>(2) The adoption has effect as if it were an adoption order made under this Act.</p> <p>(3) However, subsection (2) does not apply if the Childrens Court makes a declaration of non-recognition of the adoption.</p> <p>(4) The Childrens Court may make a declaration of non-recognition of the adoption if satisfied the adoption is manifestly contrary to public policy, taking into account the child's wellbeing and best interests.</p> <p>(5) An interested person may apply to the Childrens Court for a declaration of non-recognition of the adoption.</p> <p>(6) Before applying for the declaration, the person must give written notice:</p>

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				<p>(a) if the person is the chief executive - to the Commonwealth central authority; or</p> <p>(b) otherwise - to the chief executive.</p> <p>(7) The notice must state that the person proposes to apply for the declaration and the reasons for the proposed application.</p> <p>(8) If the chief executive is given a notice under subsection (6)(b), the chief executive must give a copy of the notice to the Commonwealth central authority.</p> <p>(9) If the applicant is not the chief executive, the chief executive is entitled to be joined as a party to the proceedings concerning the application.</p> <p>(10) This section is subject to division 2.</p> <p>(11) In this section:</p> <p>'declaration of non-recognition', of an adoption granted in a convention country, means a declaration that the adoption does not have effect as if it were an adoption order made under this Act.</p> <p>'interested person', for an adoption, means:</p> <p>(a) the chief executive; or</p> <p>(b) an adoptive parent; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(c) the adopted child.</p>
			Section 293	<p>(1) This section applies to an adoption in a non-convention country if:</p> <p>(a) the adoption was effective according to the law of that country; and</p> <p>(b) at the time at which the legal steps that resulted in the adoption were commenced, the adoptive parent, or each of the adoptive parents, was resident or domiciled in that country and had been resident or domiciled in that country for at least 1 year; and</p> <p>(c) in consequence of the adoption, the adoptive parent or adoptive parents had, or would (if the adopted person had been a young child) have had, immediately following the adoption, according to the law of that country, a right superior to that of any biological parent of the adopted person in respect of the custody of the adopted person; and</p> <p>(d) under the law of that country the adoptive parent or adoptive parents were, by the adoption, placed generally in relation to the adopted person in the position of a parent or parents; and</p> <p>(e) the adoption has not been rescinded under the law of that country.</p> <p>(2) For the purposes of the laws of Queensland, the adoption has the same effect as an adoption order under this Act.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(3) If an issue relating to an adoption in a non-convention country arises in a proceeding before a court, it must be presumed, in the absence of evidence to the contrary, that the adoption is one to which this section applies.</p> <p>(4) However, a court may refuse to recognise an adoption as being an adoption to which this section applies if it appears to the court that the procedure followed or the law applied in connection with the adoption involved a denial of natural justice or did not comply with the requirements of substantial justice.</p> <p>(5) A document purporting to be the original or a certified copy of an order or record of adoption made by a court or a judicial or public authority in a non-convention country is, in the absence of proof to the contrary, sufficient evidence:</p> <p>(a) that the adoption was made in that country and is effective under the law of that country; and</p> <p>(b) that the adoption has not been rescinded.</p> <p>(6) Except as provided in this section, the adoption of a person in a non-convention country does not have effect for the purposes of the laws of Queensland.</p> <p>(7) Nothing in this section affects any right that was acquired by, or became vested in, a person before the commencement of the repealed Act.</p>
			Section 295	Despite section 292(2), a simple adoption does not end the

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				<p>legal relationship between the adopted child and the individuals who were, immediately before the adoption, the child's parents.</p>
			Section 296	<p>(1) If a simple adoption is converted in a convention country, the adoption is taken to be a full adoption.</p> <p>(2) However, subsection (1) does not apply if the Childrens Court makes a declaration of non-recognition of the conversion.</p> <p>(3) The Childrens Court may make a declaration of non-recognition of the conversion if it is satisfied the conversion is manifestly contrary to public policy, taking into account the child's best interests.</p> <p>(4) An interested person may apply to the Childrens Court for a declaration of non-recognition of the conversion.</p> <p>(5) Before applying for the declaration, the person must give a notice:</p> <p>(a) if the person is the chief executive - to the Commonwealth central authority; or</p> <p>(b) otherwise - to the chief executive.</p> <p>(6) The notice must state that the person proposes to apply for the declaration and the reasons for the proposed application.</p>

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				<p>(7) If the chief executive is given a notice under subsection (5)(b), the chief executive must give a copy of the notice to the Commonwealth central authority.</p> <p>(8) If the applicant is not the chief executive, the chief executive is entitled to be joined as a party to the proceedings concerning the application.</p>
			Section 297	<p>(1) An adoptive parent of a child under a simple adoption may apply to the Childrens Court for an order declaring the adoption to have effect as a full adoption.</p> <p>(2) The applicant must serve a copy of the application on the chief executive.</p> <p>(3) The served copy must state the applicant's reasons for the application.</p> <p>(4) The chief executive must give a copy of the application to the Commonwealth central authority.</p> <p>(5) The chief executive is entitled to be joined as a party to the proceedings concerning the application.</p> <p>(6) The court may make the order only if satisfied:</p> <p>(a) an adoption compliance certificate, issued in the convention country in which the adoption was granted, is in force for the adoption; and</p> <p>(b) the adoptive parent is habitually resident in Queensland;</p>

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				<p>and</p> <p>(c) when the adoption was granted, the adopted child was habitually resident in the convention country; and</p> <p>(d) if the adopted child is not in Australia when the court proposes to make the declaration - the child is not prevented from entering Australia:</p> <p>(i) under a law of the Commonwealth or a State; or</p> <p>(ii) by an order of a court of the Commonwealth or a State; and</p> <p>(e) the child is not prevented from residing permanently in Australia:</p> <p>(i) under a law of the Commonwealth or a State; or</p> <p>(ii) by an order of a court of the Commonwealth or a State.</p> <p>(7) If the court makes the order, the adoption has effect as a full adoption.</p>
			Section 298	<p>(1) This section applies if:</p> <p>(a) a child is adopted, in a country other than Australia or New Zealand, under arrangements made between the chief executive and the competent authority for the other country; and</p> <p>(b) the adoption has been in force for less than 1 year; and(c)</p>

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				<p>the child is present in Queensland.</p> <p>(2) The chief executive may supervise the wellbeing and interests of the child for the prescribed period, starting on the day the child arrives in Queensland.</p> <p>(3) If the chief executive carries out the supervision, the chief executive may, by written notice, require the child's adoptive parents to pay the fee prescribed under a regulation for the supervision.</p> <p>(4) The notice must state the time, not less than 30 days after the notice is given, by which the fee must be paid.</p> <p>(5) A person must allow an authorised officer reasonable access to the child to carry out the supervision.</p> <p>(6) It does not matter for subsection (1)(a) whether the adoption is one that, under this Act, has the same effect as an adoption order under this Act.</p> <p>(7) In this section:</p> <p>'authorised officer' means an officer of the department, or adoption contract worker, authorised by the chief executive to carry out supervision under this section.</p> <p>'prescribed period' means a period of 1 year less the length of any period, after the child's adoption but before the child's arrival in Queensland, for which the child was resident in a State, other than Queensland, or in New Zealand.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 299	<p>(1) On application made by a person mentioned in subsection (2), the Childrens Court may make an order declaring that an adoption is one to which section 292 or 293 applies.</p> <p>(2) Any of the following persons may make the application:</p> <ul style="list-style-type: none"> (a) the adopted child; (b) an adoptive parent; (c) a person tracing a relationship, because of the adoption, through or to the adopted child. <p>(3) The applicant must serve a copy of the application on the chief executive at least 21 days before the day fixed for the hearing of the application.</p> <p>(4) The chief executive is entitled to be joined as a party to the proceedings.</p> <p>(5) The court may:</p> <ul style="list-style-type: none"> (a) direct that notice of the application be given to the Attorney-General or any other person the court considers appropriate; or (b) direct that a person be made a party to the application; or (c) permit a person having an interest in the matter to be joined as a party to the proceedings.

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				<p>(6) If the court grants the application, it may include in the order any particulars relating to the adoption, the adopted child or an adoptive parent as the court finds to be established.</p> <p>(7) The court may make the orders about costs and security for costs, whether by way of interlocutory order or otherwise, as the court thinks just.</p> <p>(8) For the purposes of the laws of Queensland, an order under this section binds the State, whether or not notice was given to the Attorney-General, but, except as provided in subsection (9), does not affect:</p> <p>(a) the rights of a person other than:</p> <p>(i) a party to the proceedings for the order; and</p> <p>(ii) a person to whom notice of the application for the order was given; and</p> <p>(iii) a person claiming through a person mentioned in subparagraph (i) or (ii); or</p> <p>(b) an earlier judgment, order or decree of a court of competent jurisdiction.</p> <p>(9) In proceedings in a court in Queensland relating to the rights of a person other than a person mentioned in subsection(8)(a)(i) to (iii), a copy of an order made under this section, certified by the registrar of the Supreme Court to be a</p>

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				<p>true copy, is evidence that an adoption:</p> <p>(a) was effected in accordance with the particulars contained in the order; and</p> <p>(b) is an adoption to which section 292 or 293 applies.</p>
			Section 303	<p>(1) A person must not give or receive, or agree to give or receive, a payment or other reward in consideration of:</p> <p>(a) the adoption or proposed adoption of a child; or</p> <p>(b) the giving of consent to the adoption of a child; or</p> <p>(c) the transfer of a child's care or custody with a view to the child's adoption; or</p> <p>(d) a negotiation or arrangement for a child's adoption.</p> <p>Maximum penalty:</p> <p>(a) for an individual - 150 penalty units or 18 months imprisonment; or</p> <p>(b) for a corporation - 1000 penalty units.</p> <p>(2) Subsection (1) applies before or after the birth of the relevant child.</p> <p>(3) It is immaterial whether the adoption happens or may lawfully happen.</p>

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			Section 306	<p>A person (the 'witness') must not witness a person's form of consent to the adoption of a child if:</p> <p>(a) the form of consent is in the approved form under section 18 and the witness has not sighted the documents prescribed for section 18(2)(c); or</p> <p>(b) the witness knows, or ought to know, the other person:</p> <p>(i) is not the person named in the form of consent; or</p> <p>(ii) is not a parent of the child; or</p> <p>(iii) does not understand the effect of giving consent and effect of adoption; or</p> <p>(iv) does not have capacity to give the consent; or</p> <p>(v) is not giving consent freely and voluntarily; or</p> <p>(c) the witness is not present when the other person signs the form of consent; or</p> <p>(d) the form of consent does not show the correct date for the day on which the consent is given.</p> <p>Maximum penalty - 40 penalty units.</p>
			Section 307H	<p>The tribunal must take all reasonable steps to ensure each child taking part in an adoption proceeding understands the tribunal's procedures.</p>

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			Section 307I	<p>(1) This section applies if an adoption proceeding is about the suitability of a person to be an adoptive parent of a particular child.</p> <p>(2) The tribunal must consider whether it would be in the child's best interests for the child to be separately represented before the tribunal by a lawyer (a 'separate representative').</p> <p>(3) If the tribunal considers it would be in the child's best interests for the child to be separately represented before the tribunal by a lawyer, the tribunal must order that the child be represented by a separate representative.</p> <p>(4) A separate representative may represent more than 1 child in the same proceeding before the tribunal.</p> <p>(5) A separate representative must:</p> <p>(a) act in the child's best interests having regard to any expressed views or wishes of the child; and</p> <p>(b) as far as possible, present the child's views and wishes to the tribunal.</p> <p>(6) For the QCAT Act, a separate representative has the same rights and obligations as a party to the review.</p>
			Section 307J	<p>(1) A child must not be compelled to give evidence in an adoption proceeding.</p> <p>(2) Without limiting subsection (1), the tribunal may not require a child to do either of the following under the QCAT</p>

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				<p>Act, section 97(1):</p> <p>(a) attend a hearing of an adoption proceeding to give evidence;</p> <p>(b) produce a stated document or other thing to the tribunal.</p> <p>(3) Before a child gives evidence in an adoption proceeding, the tribunal must satisfy itself that the child is willing to give the evidence.</p>
			Section 307K	<p>(1) This section applies if an adoption proceeding is about the suitability of a person to be an adoptive parent of a particular child.</p> <p>(2) Whether or not the child appears as a witness before the tribunal, the child has the right to express his or her views to the tribunal about matters relevant to the review.</p>
			Section 307L	<p>(1) This section applies if a child is giving evidence or expressing the child's views to the tribunal.</p> <p>(2) Only the following persons may be present while the child gives evidence or expresses the child's views:</p> <p>(a) the members constituting the tribunal for the proceeding;</p> <p>(b) the lawyer, if any, representing the child;</p> <p>(c) the separate representative, if any, for the child;</p> <p>(d) the child's support person if the child has a support</p>

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				<p>person and agrees to that person's presence.</p> <p>(3) Despite subsection (2), the child may elect to give evidence or express the child's views in the presence of the parties and their representatives if the child:</p> <p>(a) is 12 years or more; and</p> <p>(b) is represented by a lawyer or a separate representative.</p>
			Section 307M	<p>(1) A child giving evidence or expressing the child's views in an adoption proceeding must not be cross-examined.</p> <p>(2) Also, only the following persons may ask questions of a child giving evidence or expressing the child's views in an adoption proceeding:</p> <p>(a) the members constituting the tribunal for the proceeding;</p> <p>(b) the lawyer, if any, representing the child;</p> <p>(c) the separate representative, if any, for the child.</p>
			Section 307N	<p>(1) The tribunal may, by order (a 'confidentiality order'), prohibit or restrict the disclosure to a party to an adoption proceeding of all or some of the evidence given before the tribunal, or of the whole or part of the contents of a document given to, or received in evidence by, the tribunal for the review.</p> <p>(2) Subsection (3) applies for the purpose of the tribunal:</p>

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				<p>(a) deciding whether to make a confidentiality order; or</p> <p>(b) giving effect to a confidentiality order.</p> <p>(3) The tribunal may:</p> <p>(a) exclude a party, and any representative of the party, from part of an adoption proceeding; or (b) deal with a document in a way that ensures it is not disclosed to a party.</p> <p>(4) The tribunal may make a confidentiality order only if it is satisfied that if it does not do so:</p> <p>(a) a child is likely to be harmed; or</p> <p>(b) the safety of another person is likely to be endangered; or</p> <p>(c) there would be undue interference with the privacy of a child or another person.</p> <p>(5) The tribunal may act under subsection (1) on its own initiative or on application by a party to an adoption proceeding.</p> <p>(6) A confidentiality order does not act to prohibit or limit the disclosure of material to a separate representative in an adoption proceeding.</p>
			Section 322	<p>(1) Each of the following is a 'convention country' for this Act:</p> <p>(a) a country prescribed under a regulation to be a</p>

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				<p>convention country;</p> <p>(b) another country for which the Hague convention has entered into force, under article 46 of the Hague convention, other than:</p> <p>(i) Australia; or</p> <p>(ii) New Zealand; or</p> <p>(iii) a country to whose accession Australia has raised an objection under article 44 of the Hague convention.</p> <p>(2) However, subsection (1) applies to a country subject to a declaration under article 45 of the Hague convention.</p>

5. South Australia

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

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national</p>	Adoption Act 1988	SA	s4	'child' means a person who has not attained the age of 18 years.
			s7	The welfare of the child to whom any proceedings under this Act relate must be regarded as the paramount consideration.
			s8	The Youth Court of South Australia has the power to make orders for the adoption of children, only in relation to a child who is in South Australia; and in favour of a person or persons who are resident or domiciled in the State of South Australia.
			s8A	Before making an order for the adoption of a child of or over 5 years of age, Youth Court of South Australia 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) and must take into account any opinion expressed by the child. The Court may determine the weight to be given to an opinion expressed by a child in an interview under this section, taking into account the age of the child and any other factors the Court considers relevant.
			s11	An interview under this section must not be conducted in the presence of any party to the adoption. The Youth Court of South Australia will not make an order

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<p>adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>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.</p> <p>An order for the adoption of an Aboriginal child will not be made except in favour of a member of the child's Aboriginal community who has the correct relationship with the child in accordance with Aboriginal customary law or, if there is no such person seeking to adopt the child, some other Aboriginal person.</p> <p>An order for the adoption of an Aboriginal child may be made in favour of a person who is not an Aboriginal person if the Youth Court of South Australia is satisfied:</p> <p>(a) that there are special circumstances justifying the making of the order; and</p> <p>(b) that the child's cultural identity with the Aboriginal people will not be lost in consequence of the adoption.</p>
			s15	<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 (whether the parent or guardian is present in Australia or not).</p> <p>The mother of a child cannot consent to the adoption of the child until 5 days after the birth of the child and, a mother's consent given more than 5 but less than 14 days after the birth of the child will not be recognised as a valid consent to</p>

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				<p>the child's adoption.</p> <p>However, the Youth Court of South Australia may recognise the validity of a consent of a mother given more than 5 but less than 14 days after the birth of the child, if satisfied:</p> <p>(a) that there were special circumstances justifying the giving of consent less than 14 days after the birth of the child; and</p> <p>(b) that the mother was able to exercise a rational judgment on the question of consent.</p> <p>The consent of a parent or guardian must be in writing; and must (except where the Minister or the Chief Executive is the guardian):</p> <p>(i) be witnessed in accordance with the regulations; and</p> <p>(ii) be endorsed by a person authorised by the 'Chief Executive' (Chief Executive of the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act) with a statement to the effect that the parent or guardian has been counselled by that person at least three days before the giving of consent and appears to understand the consequences of adoption and the procedures for revoking the 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 but if it appears to the Youth Court of South Australia that a particular person may be able</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				to establish paternity of the child (not being a person whose 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.
			s16	<p>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; and 25 days have elapsed since the giving of consent; and the Youth Court of South Australia is satisfied, after interviewing the child in private, that the child's consent is genuine and the child does not wish to revoke it.</p> <p>The consent of a child must be in writing; and must be witnessed in accordance with the regulations; and must be endorsed by an officer authorised by the Chief Executive to make such an endorsement with a statement to the effect that the child has been counselled by that person.</p>
			s17	<p>A consent to the adoption of a child given by a person in accordance with the law of another State or of a Territory of the Commonwealth will be regarded as a consent given by the person in accordance with this Act.</p> <p>Subject to any law of the Commonwealth, the requirements of this Act relating to consent to adoption will be taken to have been complied with in relation to the adoption of a child from a country where the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption is in force (except a country in respect of which Australia has raised an objection in accordance with Article 44 of the</p>

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				Convention) (' Convention Country ') if the laws of that country relating to consent to such an adoption have been complied with.
			s18	<p>The Court may dispense with consents in certain circumstances, for example if the person is in such a physical or mental condition as not to be capable of properly considering the question of consent; or the person has abandoned, deserted or persistently neglected or ill-treated the child; or the person has, for a period of not less than one year, failed, without reasonable excuse, to discharge the obligations of a parent or guardian of the child.</p> <p>The Youth Court of South Australia may dispense with the consent of a child to an adoption where it appears to the Court that the child is intellectually incapable of giving consent.</p>
			s20	An adoption order made (before or after the commencement of this Act) under an Australian law, but not under the law of the State of South Australia, will be recognised under the law of the State as having the same effect as an adoption order under the law of the State of South Australia.
			s21	<p>An adoption order made under the law of a Convention Country will be recognised under the law of South Australia as having the same effect as an adoption order under the law of South Australia.</p> <p>An adoption order made (after the commencement of this Act) under the law of any other country outside Australia will be recognised under the law of South Australia as having the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>same effect as an adoption order under the law of South Australia if:</p> <p>(a) the order was made in accordance with the law of that country; and</p> <p>(b) when the order was made, each applicant was domiciled in that country or had been resident in that country for at least 12 months; and</p> <p>(c) the circumstances in which the order was made would, if they had existed in this State, have constituted a sufficient basis for making an adoption order under this Act; and</p> <p>(d) the proceedings in which the order was made involved no denial of natural justice or failure to observe the requirements of substantial justice.</p>
			s22	<p>Before making an order for the adoption of a child, the Youth Court of South Australia will consider any report prepared by or on behalf of the Chief Executive and submitted to the Court as to:</p> <p>(a) where the Chief Executive is the guardian of the child under section 25 - the circumstances of the child; and</p> <p>(b) in any case - the suitability of the prospective adoptive parents and their capacity to care adequately for the child.</p>
			s24	<p>An application for an adoption order will not be heard in an open court and except as authorised by the Court, the records of proceedings for an adoption order will not be open to</p>

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				inspection.
			s26	Where a child suffers from some physical or mental disability; or a child, for some other reason, requires special care, the Minister may enter into an arrangement with prospective adoptive parents to contribute to the support of the child after the making of an adoption order.
			s26A	<p>If a party to the adoption or proposed adoption of a child wishes to enter into an arrangement with another party to the adoption for the provision of information, contact or any other matters related to the welfare of the child, or to vary such an arrangement, the Chief Executive will endeavour to facilitate the making of the arrangement or variation.</p> <p>For the purposes of this section, the birth parents and the adoptive parents will be taken to be the parties to the adoption.</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>The Chief Executive will maintain a register of arrangements entered into under this section.</p> <p>An arrangement entered into under this section is not enforceable in any court and breach of an arrangement or failure to enter into such an arrangement does not affect the validity of an adoption order or of any consent to an</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				adoption.
			s28	<p>An agreement under which a parent or guardian of a child receives any consideration (other than a consideration of a kind authorised by the Chief Executive) for a consent to the adoption of the child, is illegal and void.</p> <p>A person who is a party to an agreement of a kind referred to above is guilty of an offence.</p> <p>Maximum penalty: \$10 000 or two years imprisonment</p>
			s29	<p>A person or organisation that conducts negotiations leading, or intended to lead, to the making of an adoption order is guilty of an offence.</p> <p>Maximum penalty: \$10 000 or two years imprisonment</p> <p>There are exceptions, for negotiations conducted for no fee by, or on behalf of, a parent, guardian or relative of a child for an adoption order in favour of a relative of the child or a person who is cohabiting with a parent of the child in a marriage relationship; or for negotiations conducted by a person or organisation approved by the Chief Executive.</p>
			s30	<p>A person must not take or entice a child away from a person who is entitled to custody of the child in pursuance of an adoption order with intent to deprive that person of the child.</p> <p>Maximum penalty: \$10 000 or two years imprisonment</p>

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			s31	<p>A person who publishes or causes to be published in the news media:</p> <p>(a) the name of a child, or material tending to identify a child, in relation to whom proceedings have been taken under this Act or any other Australian law that substantially corresponds to this Act;</p> <p>(b) the name of a parent or guardian, or material tending to identify a parent or guardian, of a child in relation to whom proceedings have been taken under this Act or any other Australian law that substantially corresponds to this Act;</p> <p>(c) the name of a party, or material tending to identify a party, to proceedings under this Act or any other Australian law that substantially corresponds to this Act,</p> <p>is guilty of an offence.</p> <p>Maximum penalty: \$20 000.</p> <p>This section does not prevent a publication made in pursuance of an authorisation granted by the Youth Court of South Australia or the Chief Executive.</p>
			s32	<p>A person who publishes or causes to be published in the news media material that a person desires to enter into negotiations with the parents or guardians of a child with a view to adoption of the child; or that a person has a child that he or she desires to place with adoptive parents, is guilty of an offence.</p>

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				Maximum penalty: \$20 000
			s36	<p>A person who is, or has been, engaged in duties related to the administration of this Act must not disclose information relating to an adopted person or the birth or adoptive parents of an adopted person obtained in the course of those duties except:</p> <ul style="list-style-type: none"> (a) in the administration of this Act; or (b) as authorised or required by law; or (c) with the consent of the person to whom the information relates. <p>Maximum penalty: \$10 000</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 21:</p> <p>States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards</p>	<p>Adoption Act 1994</p>	<p>WA</p>	<p>s 7</p>	<p>Adoption services may be conducted by the birth parent of a child who has the responsibility for the long-term and day-to-day care, welfare and development of the child or a person acting on behalf of that birth parent, with a view to the child's adoption by a step-parent of the child.</p>
	<p>Adoption Act 1994</p>	<p>WA</p>	<p>s 9</p>	<p>The Minister may grant a licence to a body corporate to conduct adoption services and to perform other functions for the purposes of this Act.</p>
	<p>Adoption Act 1994</p>	<p>WA</p>	<p>s 11</p>	<p>A person, not being a private adoption agency, is not to hold himself, herself or itself out as being, or pretend to be, or make use of any words or letters or any name, title, abbreviation, or description that implies or tends to encourage the belief that he, she or it is a private adoption agency.</p>
	<p>Adoption Act 1994</p>	<p>WA</p>	<p>s 17</p>	<p>The following persons' effective consent to a child's adoption is require:</p> <p>(a) where the child has not been adopted before:</p> <p>(i) the child's mother; and</p> <p>(ii) the child's father or parent under section 6A of the Artificial Conception Act 1985; or</p> <p>(b) where the child has been adopted before:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>equivalent to those existing in the case of national adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>(i) in this State; or</p> <p>(ii) elsewhere if under section 136 or 138 the adoption has the same effect as an adoption order,</p> <p>each adoptive parent of the child; and</p> <p>(c) in every case:</p> <p>(i) each of the child’s guardians; and</p> <p>(ii) where the child will be 12 or more years of age at the time when the application for an adoption order is filed in the Court, the child.</p>
	<p>Adoption Act 1994</p>	<p>WA</p>	<p>s 24</p>	<p>Before an application for an adoption order in relation to a child is filed, an application may be made to the Court by the CEO, a prospective adoptive parent or on behalf of the child for an order to dispense with a requirement under section 17(1) for a person’s consent to the child’s adoption.</p>
	<p>Adoption Act 1994</p>	<p>WA</p>	<p>s 38 and 39</p>	<p>Section 38</p> <p>A person who wishes to adopt a child under this Act, in a Convention country or in an overseas jurisdiction is to apply to the CEO to be assessed for suitability for adoptive parenthood.</p> <p>Section 39</p> <p>(1) A person cannot apply under section 38(1) unless at the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>time of the application, he or she:</p> <ul style="list-style-type: none"> (a) subject to subsection (2), is an Australian citizen; (b) is 18 or more years of age; (c) is resident or domiciled in this State or, if applying to adopt a child in a Convention country, is habitually resident in this State; (d) if married to, or in a de facto relationship with, another person, applies as a joint applicant with that person; and (e) if applying as a joint applicant: <ul style="list-style-type: none"> (i) has been married to, or in a de facto relationship with, the other applicant for at least 3 years; and (ii) is not married to, or in a de facto relationship with, any other person. <p>(2) Two persons cannot apply jointly under section 38(1) unless at the time of the application:</p> <ul style="list-style-type: none"> (a) both persons are Australian citizens; or (b) one of the persons is an Australian citizen and the other is a citizen of a country that, in the opinion of the CEO, gives rights to adopted persons that are not inferior to the rights of non-adopted persons in relation to entry into, residence, education and medical care in that country.

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	Adoption Act 1994	WA	s 40	<p>For purposes of the assessment report, each applicant is to provide information as to the applicant's suitability for adoptive parenthood as required by the person so appointed, including evidence that the applicant:</p> <ul style="list-style-type: none"> (a) is, and continues to be, a person to whom section 39(1) applies; (b) is physically and mentally able to care for and support a child until the child attains 18 years of age; (c) is of good repute; (d) if applying jointly, has a stable marriage or de facto relationship with the other applicant; (da) shows a desire and ability to provide a suitable family environment for the child; (e) has not been found guilty: <ul style="list-style-type: none"> (i) in the 5 years before the date of the assessment, of an offence punishable at the time of the finding by imprisonment; (ii) at any time, of an offence punishable at the time of the finding by life imprisonment or imprisonment for 20 years or more; or (iii) at any time, of any other offence involving an assault or sexual offence against a child, committed when the applicant

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>was 18 or more years of age; and</p> <p>(f) satisfies other criteria as prescribed by regulation.</p>
	Adoption Act 1994	WA	s 68	<p>An adoption order in relation to a child is not to be made unless the Court is satisfied that:</p> <p>(g) if the child is habitually resident in a Convention country:</p> <p>(i) the arrangements for the adoption of the child have been made in accordance with the requirements of the Hague Convention;</p> <p>(ii) the arrangements for the adoption of the child are in accordance with the laws of the Convention country;</p> <p>(iii) the Central Authority of the Convention country has agreed to the adoption of the child; and</p> <p>(iv) the State Central Authority has agreed to the adoption of the child.</p>
	Adoption Act 1994	WA	s 78A	<p>(1) Despite section 39(1)(a) and (c) and (2), a person who is habitually resident in a Convention country who wishes to adopt a child who is habitually resident in Western Australia may make an application to the Court for an adoption order.</p> <p>(2) Despite any other provision in this Part to the contrary, the Court may make an adoption order on an application under subsection (1) if the Court is satisfied that:</p>

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				<p>(a) the child is in Western Australia;</p> <p>(b) the child is not prevented from leaving Australia:</p> <p>(i) under a law of the Commonwealth, a State or a Territory; or</p> <p>(ii) because of an order of a court of the Commonwealth, a State or a Territory;</p> <p>(c) the arrangements for the adoption of the child are in accordance with the requirements of the Hague Convention;</p> <p>(d) the Central Authority of the Convention country has agreed to the adoption of the child;</p> <p>(e) the State Central Authority has agreed to the adoption of the child; and</p> <p>(f) the application for the adoption complies with such of the provisions of section 68(1) or (2) as are relevant to the circumstances of or the arrangements for the adoption.</p>
	Adoption Act 1994	WA	s 139	<p>Where:</p> <p>(a) a child is adopted in a country other than Australia, whether or not the adoption is an adoption that has the same effect as an adoption order under this Act;</p> <p>(b) the order that was made in relation to the child's adoption has been in force for less than 12 months;</p>

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				<p>(c) an adoptive parent of the child was not a citizen of the country in which the order was made at the time the order was made; and</p> <p>(d) the child is present in this State,</p> <p>the CEO may supervise the welfare and interests of the child during the 6 months commencing from the day on which the child arrived in this State, and a person authorised in writing by the CEO for that purpose has a right of access to the child at all reasonable times during that period.</p>
	<p>Adoption Regulations 1995</p>	<p>WA</p>	<p>s 10A</p>	<p>During the period a private adoption agency holds a licence, the agency must:</p> <p>(a) comply with the provisions of the Adoption Act 1994;</p> <p>(b) not collect funds for disbursement as aid to or disburse funds as aid to people living in another country;</p> <p>(c) not give money or other benefits to or receive money or other benefits from a person who collects funds for disbursement as aid to or disburses funds as aid to people living in another country;</p> <p>(d) not perform any functions other than functions that may be performed under a licence;</p> <p>(e) not provide an adoption service in respect of:</p> <p>(i) a child domiciled in a Convention country unless the</p>

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				<p>agency is accredited under regulation 23C; or</p> <p>(ii) a child domiciled in any other country that is not specified in the licence;</p> <p>(f) not issue publications promoting the adoption of children or offer preparation courses for individuals who wish to adopt a child from another country unless the publication or the content of the course has been approved by the Director-General; and</p> <p>(g) comply with, and ensure that its staff comply with, the Code of Conduct set out in Schedule 1 as if the Code applied, with all necessary modifications to, and in relation to a private adoption agency and, without limiting this, the Code applies as if a reference to an accredited body were a reference to a private adoption agency and a reference to the State Central Authority were a reference to the Director-General.</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 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national</p>	<p>Adoption of Children Act 1994</p>	<p>Territory (NT)</p>	<p>Section 8 and Schedule 1</p>	<p>Adoption is to be regarded as a service for the relevant child, and the welfare and interests of that child are to be the paramount considerations. In this context, regard is to be had (amongst other things) to the ethnicity and religion of the birth parents of the child. Specifically, the Minister and any Court are to take the following principles into account:</p> <p>(a) it is preferable that the child should be placed with a family that has the same ethnic and cultural origins as the child's birth parents in order to facilitate an environment that will promote the child's cultural heritage and identity;</p> <p>(b) where the child is an Aboriginal child, recognition is to be given to:</p> <p>(i) the absence of adoption in customary Aboriginal child care arrangements, arrangements for the custody and guardianship of the child being made within the child's extended family or with other Aboriginal people who have the correct relationship under customary Aboriginal law; and</p> <p>(ii) the desire and effort of the Aboriginal community to preserve the integrity of its culture and kinship relationships so that efforts must be made to find placements within families, kin groups or ethnic communities as appropriate;</p> <p>(c) there should be appropriate consultation with the child's parents or other relatives, or representatives of appropriate</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>associations, organisations or groups, in order to ascertain what is the best course of action to promote the ethnic welfare and development of the child; and</p> <p>(d) where it is the express wish of the birth parents of a child that the child be placed with a family that has particular religious convictions, preference is to be given to the placement of the child with such a family.</p>
			Section 9	<p>The Minister is responsible for:</p> <p>(a) the assessment of the suitability of a person or persons to adopt a child (including child under 18 years of age who has entered the Northern Territory as a non-citizen of Australia for the purposes of being adopted by a permanent resident of Australia and who is intended to become a permanent resident of Australia ('Non-Citizen Child'));</p> <p>(b) the arrangements for and in relation to the allocation of an Australian born and domiciled child ('Citizen Child') to a person or persons wishing to adopt such a child;</p> <p>(c) the transfer of the care and custody of a child (including a Non-Citizen Child) to the person or persons who will adopt him or her; and</p> <p>(d) the giving of his or her consent to the adoption of a child (including a Non-Citizen Child) of whom he or she has guardianship.</p>
			Section 10	A Court must not make an order for the adoption of a child unless it is satisfied that, as far as practicable and having

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				<p>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.</p> <p>Without limiting the above, an order for the adoption of a child who is between 12 and 18 years old must not be made unless either:</p> <p>(a) the child has consented to the adoption; or</p> <p>(b) if the child has not consented, the Court is otherwise satisfied that there are special reasons related to the welfare and interests of the child why the order should be made.</p> <p>An order in relation to a child who is 18 year old (or older) must not be made unless the child consents to the adoption.</p>
			Section 11	<p>In relation to the adoption of an Aboriginal child, the Court must satisfy itself that every effort has been made (including consultation with the child's parents, with other persons who have responsibility for the welfare of the child in accordance with Aboriginal customary law and with such Aboriginal welfare organisations as are appropriate in the case of the particular child) to arrange appropriate custody:</p> <p>(a) within the child's extended family; or</p> <p>(b) where that cannot be arranged, with Aboriginal people who have the correct relationship with the child in accordance with Aboriginal customary law.</p> <p>If custody of the sort referred to above is not possible or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>would be inconsistent with the welfare and interests of the child, the Court must ensure that an adoption occurs that is consistent with the welfare and interests of the child and in so doing must:</p> <p>(a) give preference to the adoption of the child by applicants one or both of whom are Aboriginal persons who are, in the opinion of the Minister, suitable to adopt the child;</p> <p>(b) take into consideration the placement of the child in geographical proximity to the family or other relatives of the child who have an interest in, and a responsibility for, the welfare of the child; and</p> <p>(c) take into consideration undertakings, if any, by the persons who will have the care and custody of the child to encourage and facilitate the maintenance of contact between the child and its own kin and with its own culture.</p>
			Section 17	<p>Upon an application by a person or persons to adopt a child, the Minister must assess or cause to be assessed by an 'approved person' (meaning a person, or the holder from time to time of a particular designation or office, approved in writing by the Minister for a purpose under this Act) the suitability of the applicant or applicants for the purposes of the proposed adoption.</p>
			Section 26	<p>Subject to the Act, the Court must not make an order for the adoption of a child unless:</p> <p>(a) consent to the adoption is given by the appropriate person or persons ascertained in accordance with the Act (and that</p>

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				<p>consent has not been revoked); or</p> <p>(b) the Court has made an order under section 35 of the Act dispensed with the need for such consent to be given.</p>
			Section 30	<p>A person who is required to consent to the adoption of a child will not consent to the adoption unless he or she has received counselling from an approved person (see section 17 reference above for definition). The person who gives the counselling must, not later than 7 days before consent is given, give to the person information relating to the effect of an order for adoption and the alternatives to adoption. These rules do not apply to a person who will have been residing outside of the Northern Territory for a continuous period of 2 months at the time of giving the consent.</p>
			Section 35	<p>The Court may dispense with the consent of a person whose consent would otherwise be required where the Court is satisfied that:</p> <p>(a) after reasonable inquiry, the person cannot be found;</p> <p>(b) the person is in such a physical or mental condition as not to be capable of properly considering the question whether he or she should give his or her consent;</p> <p>(c) the person has abandoned, deserted or persistently neglected or ill-treated the child;</p> <p>(d) the person has, for a period of not less than one year, failed, without reasonable cause, to discharge the obligations</p>

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				<p>of a parent or guardian, as the case may be, of the child; or</p> <p>(e) there are any other special circumstances by reason of which the consent may properly be dispensed with.</p>
			Section 37	<p>Where a Non-Citizen Child enters NT from another Australian state or territory or from overseas and the federal Immigration (Guardianship of Children) Act 1946 no longer applies in relation to the Non-Citizen Child, the guardianship of the child will be placed with the Minister and section 36 of the Act will otherwise apply, for so long as the child normally resides in the NT.</p>
			Section 41	<p>A Court must not make an order for the adoption of a child unless it has received a report in writing from the Minister concerning the proposed adoption and, after considering the report and any other evidence before the Court, it is satisfied that:</p> <p>(a) the welfare and interests of the child will be promoted by the adoption;</p> <p>(b) the applicant or applicants are suitable to adopt the child and satisfy the requirements of the Act; and</p> <p>(c) the Minister has ascertained and taken into account the wishes, if any, of a parent of the child, including wishes in respect of arrangements between the parent or parents and any prospective adoptive parent or adoptive parents in respect of access to the child by, or the giving and receiving of information about the child to, the first-mentioned parent or</p>

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				parents.
	Care and Protection of Children Act 2007	Territory (NT)	Section 7	The Northern Territory Government has responsibility for promoting and safeguarding the wellbeing of children and supporting families in fulfilling their role in relation to children.
			Section 9	Decisions involving a child should be made: (a) promptly having regard to the child's circumstances; (b) in a way that is consistent with the cultural, ethnic and religious values and traditions relevant to the child; and (c) with the informed participation of the child, the child's family and other people who are significant in the child's life.
			Section 10	When a decision involving a child is made, the best interests of the child are the paramount concern.
			Section 12	An Aboriginal child should, as far as practicable, be placed with a person in the following order of priority: (a) a member of the child's family; (b) an Aboriginal person in the child's community in accordance with local community practice; (c) any other Aboriginal person; (d) a person who:

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				<p>(i) is not an Aboriginal person; but</p> <p>(ii) in the CEO's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing affiliation with the culture of the child's community (and, if possible, ongoing contact with the child's family).</p> <p>In addition, an Aboriginal child should, as far as practicable, be placed in close proximity to the child's family and community.</p> <p>See section 78 for the meaning of 'placement arrangement'. It appears to be something less than adoption but the concept is otherwise similar.</p>
	Guardianship of Infants Act	Territory (NT)	Section 9	A court may, upon the application of the mother or the father of any infant, make such order as it may think fit regarding the custody of the infant, and the right of access thereto of either parent, having regard to the welfare of the infant and to the conduct of the parents, and to the wishes as well of the mother as of the father
			Section 14	In any court proceedings relating to the custody or upbringing of an infant, or the administration of any property belonging to or held in trust for an infant, or the application of the income thereof, the court in deciding that question must regard the welfare of the infant as the first and paramount consideration, and must not take into consideration whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is

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				superior to that of the father.

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 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p>	<p>Adoption Act 1988</p>	<p>State (Tas)</p>	<p>Section 8</p>	<p>In the administration of this Act, the welfare and interests of the child or adopted person concerned shall be regarded as the paramount consideration at all times.</p>
<p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p>			<p>Section 9</p>	<p>For the purposes of the Act, arrangements or negotiations for, towards, or with a view to the making of an adoption order in favour of any persons may be made by, or on behalf of, the Secretary or by, or on behalf of, an approved agency.</p> <p>'approved agency' means:</p> <p>(a) a welfare organization approved by the Minister as an adoption agency under Division 1 of Part II; or</p> <p>(b) a welfare organization that, immediately before the commencement of this section, was approved as a private adoption agency within the meaning of the repealed Act so long as that approval is not revoked or suspended under section 13.</p>
<p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards</p>			<p>Section 23</p>	<p>Subject to the Act, an order for the adoption of a child shall not be made unless the court is satisfied that, so far as practicable, the wishes and feelings of the child have been ascertained and due consideration given to them, having regard to the age and understanding of the child.</p>

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<p>equivalent to those existing in the case of national adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>			Section 29	The court must not make an order for adoption unless consent from appropriate persons has been received or any such consent has been dispensed by the court. This provision otherwise extensively lists out the persons whose consent is required in particular circumstances.
			Section 35	A consent to the adoption of a child given for the purposes of the Act by a person may be revoked by notice in writing served on the Secretary before the expiration of 30 days after the date on which the instrument of consent was signed and not otherwise.
			Section 46	<p>The court shall not make an order for the adoption of a non-citizen child unless the court is satisfied as to the matters referred to in section 24 and is also satisfied</p> <p>(a) that the persons in whose favour the order is made are persons both of whom were approved by the Secretary as persons suitable to adopt a non-citizen child before the child came into, or was placed in, the care of those persons and that the placement of the child with a view to adoption by those persons has been approved by the Secretary; or</p> <p>(b) that the child has been in the care of the persons in whose favour the order is made for the preceding 12 months and that, during that period, the Secretary has supervised the welfare and interests of the child.</p>
			Section 47	<p>Where:</p> <p>(a) a child is adopted in a country, other than New Zealand, outside Australia, whether or not the adoption has, under this</p>

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				<p>Act, the same effect as an adoption order under this Act; and</p> <p>(b) the adoption in relation to the child has been in force for a period not exceeding 12 months; and</p> <p>(c) either of the adoptive parents of the child had not been resident in the country in which the order was made for a continuous period of 12 months immediately before the making of that order; and</p> <p>(d) the child is present in Tasmania:</p> <p>(i) the Secretary may supervise the welfare and interests of the child:</p> <p>(ii) for a period not exceeding 12 months commencing on the date of the arrival of the child in Tasmania; and</p> <p>(iii) if, on the expiration of that period, the child remains subject to the <i>Immigration (Guardianship of Children) Act 1946</i> of the Commonwealth, until an adoption order is made in respect of the child or the child otherwise ceases to be subject to that Act.</p>
			Section 48	<p>Where a non-citizen child is in the care of prospective adoptive parents with a view to adoption by them, the Secretary may supervise the welfare and interests of the child:</p> <p>(a) for a period not exceeding 12 months commencing on the date on which the Secretary is notified of the placement of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the child in their care; and</p> <p>(b) if, on the expiration of that period, the child remains subject to the <i>Immigration (Guardianship of Children) Act 1946</i> of the Commonwealth, until an adoption order is made in respect of the child or the child otherwise ceases to be subject to that Act.</p>
			Section 59	<p>The adoption of a person which occurred:</p> <p>(a) before or after the commencement of this section; and</p> <p>(b) in a place that was a prescribed place at the time of the adoption; and</p> <p>(c) in accordance with the law of that place at that time,</p> <p>has, so long as the adoption has not been rescinded under the law in force in that place, the same effect as an adoption order made under this Act and has no other effect.</p> <p>'prescribed place' means another state or territory of Australia, New Zealand, a 'convention country' (which means a country for which the Hague convention has entered into force under article 46 of the Hague convention, other than a country to whose accession Australia has raised an objection under article 44 of the Hague convention) and an 'agreement country' (which means a prescribed overseas jurisdiction within the meaning of the <i>Family Law (Bilateral Agreements-Intercountry Adoption) Regulations 1998</i> of the Commonwealth, as amended from time to time).</p>

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			Section 60	Subject to certain requirements, for the purposes of the law of Tasmania, the adoption of a person, whether before or after the commencement of this section, in a non-convention or non-agreement country that is an adoption to which this section applies, has, so long as it has not been rescinded under the law of that country, the same effect as an adoption order made under this Act.
	Children, Young Persons and their Families Act 1997		Section 8	In any exercise of powers under this Act in relation to a child the best interests of the child must be the paramount consideration.
			Section 70	<p>The Secretary may consent to the adoption of a child under the Adoption Act 1988 if the child is under the guardianship of the Secretary until the child reaches 18 years of age by reason of:</p> <ul style="list-style-type: none"> (a) a care and protection order under section 42(4)(d); or (b) a similar order made under an enactment; or (c) an assumption of guardianship by the Secretary under Part 8 of this Act; or (d) an enactment. <p>In deciding whether to consent to the adoption of a child, the Secretary must:</p> <ul style="list-style-type: none"> (a) consider the best interests of the child to be the paramount consideration; and

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				<p>(b) have regard to the principles set out in sections 8 and 9; and</p> <p>(c) have regard to the desirability of securing settled and permanent living arrangements for the child.</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 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:</p> <p>(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;</p> <p>(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;</p> <p>(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national</p>	<p>Adoption Act 1993</p>	<p>ACT</p>	<p>Section 5</p>	<p>A person making a decision under this Act in relation to a child or young person, must regard the best interests of the child or young person as the paramount consideration.</p> <p>In forming a view about the best interests of a child or young person, a person making a decision under this Act must take into account the following:</p> <p>(a) the likely effect of the decision on the life course of the child or young person;</p> <p>(b) the child's or young person's age, level of understanding, level of maturity, gender, and personal characteristics;</p> <p>(c) the child's or young person's physical, emotional and educational needs;</p> <p>(d) the views expressed by the child or young person;</p> <p>(e) the relationship the child or young person has with the parents, any siblings and any other relatives;</p> <p>(f) the relationship the child or young person has with the adoptive parents;</p> <p>(g) the suitability and capacity of the adoptive parents to meet the child's or young person's needs;</p>

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<p>adoption;</p> <p>(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;</p> <p>(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.</p>				<p>(h) the alternatives to adoption for the child or young person to secure permanent family arrangements.</p>
			Section 6	<p>In addition to section 5, a person making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person must:</p> <p>(a) take into account the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community; and</p> <p>(b) seek and consider submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young person or the child's or young person's family; and</p> <p>(c) take into account Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as</p>

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				identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.
			Section 26	Subject to the Act, an adoption order must not be made for a child or young person unless consent to the adoption has been given by a person or persons prescribed by the Act, or consent has been dispensed with in accordance with the Act.
			Section 31	This section sets out how consent can be revoked.
			Section 39H	An adoption order must not be made for a non-citizen child or young person unless the court is satisfied that the provisions of part 4A (Intercountry and overseas adoption) have been complied with.
			Section 57	<p>The court may make an adoption order for the adoption of a child or young person who is habitually resident in the ACT by a prospective adoptive parent or parents who are habitually resident in a Convention country.</p> <p>'Convention country' has the meaning given in the <i>Family Law (Hague Convention on Intercountry Adoption) Regulations 1998</i> (Cwlth), regulation 4. The remainder of Division 4A deals extensively with inter-company adoption issues.</p>