



ANNO VICESIMO SECUNDO

GEORGII V REGIS.

A.D. 1931.

No. 2011.

An Act to amend the Adoption of Children Act, 1925.

[Assented to, October 8th, 1931.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Adoption of Children Act Short titles. Amendment Act, 1931".

(2) The Adoption of Children Act, 1925 (which is hereinafter No. 1692 of 1925. referred to as "the principal Act"), and this Act may be cited together as the "Adoption of Children Acts, 1925 and 1931".

2. This Act is incorporated with the principal Act, and that Act Incorporation. and this Act shall be read as one Act.

3. Section 2 of the principal Act is amended by striking out the Amendment of principal Act, s. 2— word "fifteen" in the ninth line thereof and by inserting in lieu thereof the word "twenty-one" Definition of child.

4. Section 3 of the principal Act is amended so as to read as Amendment of principal Act, s. 3— follows:—

3. (1) Upon the application in writing in the prescribed form Persons who may make application for adoption. to the Court by—

(a) a husband and wife jointly; or

(b) a married person alone, but only with the consent of his or her spouse; or

(c) any unmarried person,

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an order of adoption of a child may be made in favour of the applicant, in the prescribed form, and subject to the provisions of this Act.

(2) In any case where any person is the natural or adopted parent of any child, the husband or wife of such person may make an application as aforesaid for the adoption of the child, and an order of adoption of the child may be made in favour of the applicant in the prescribed form and subject to the provisions of this Act. In every such case where an order is made the applicant shall be deemed to be the parent of the child jointly with the person first mentioned in this subsection, but notwithstanding section 12 the order shall not be deemed to terminate the rights and legal responsibilities and incidents existing between the child and such person.

(3) For the purposes of this section a person who is legally separated or divorced from his or her spouse, shall be deemed to be unmarried.

(4) Any person being the natural parent of any child may make an application, either solely or jointly with the husband or wife of such person for the adoption of such child, but notwithstanding section 12 an order made pursuant to any such application shall not be deemed to terminate the rights and legal responsibilities and incidents of such person.

(5) The consent of a spouse as required by paragraph (b) of subsection (1) hereof shall be given in evidence before the Court. The said evidence shall be given in private and the applicant shall not then be present.

Amendment of
principal Act, s. 4—
Declaration to
accompany
application.

5. Section 4 of the principal Act is hereby repealed, and the following section is enacted in lieu thereof:—

4. Before the hearing of any application, there shall be filed with the Court an affidavit of the applicant, or if the application is a joint one, of the applicants, setting forth such of the following matters as are known to the applicant or applicants, namely:—

- I. The age and sex of the applicant or applicants:
- II. The age and sex of all children, whether lawful or adopted, of the applicant or applicants and living with the applicant or applicants or dependent thereon or who have so lived with the applicant or applicants or have been dependent thereon at any time within the twelve months immediately preceding the date of the application:
- III. The degree of consanguinity, if any, between the applicant or applicants and the child the subject of the application:

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- iv. A statement as to whether or not any premium or other consideration has been received by the applicant or applicants in respect of the adoption and, if received, particulars of such premium or consideration and a statement whether or not the applicant or applicants have agreed to receive or have been promised any such premium or consideration :
- v. A statement of all property of the child the subject of the application, of every deed or settlement under which the child takes any beneficial interest, of every gift made to the child at the time of the application or contemplated by any person to be made to the child, and of every deed or settlement contemplated to be made by any person under which the child will take any beneficial interest :
- vi. A statement whether or not the child, the subject of the application, has lived with the applicant or applicants and for what period :
- vii. Any other matters which may be prescribed.

6. Section 5 of the principal Act is amended—

- (a) by striking out the word “fifteen” in the eleventh line thereof, and by inserting in lieu thereof the word “twenty-one” ; and
- (b) by inserting at the end thereof the following subsection (the preceding portion of the said section being read as subsection (1) thereof):—

Amendment of
principal Act, s. 5—
Proceedings on
adoption.

(2) For the purpose of being satisfied as to the matters mentioned in paragraph (d) of subsection (1) hereof, the Court shall question the child in private, and no parent or guardian of the child, or any applicant for the adoption of the child, shall then be present. The Court may, before or after the questioning of the child, as aforesaid, exercise any of the powers conferred by section 8, and may, after the exercise of the said powers, again question the child as aforesaid.

7. The principal Act is amended by inserting therein after section 5 the following sections:—

Amendment of
principal Act—

5A. (1) The Court to which an application is made under this Act to adopt any child and the Court or the Judge of the Supreme Court to which an application is made to vary, reverse, or discharge any order of adoption under this Act, shall cause notice of the application to be given to the Chairman of the Children's Welfare and Public Relief Board at least three days before the hearing of the application.

Children's Welfare
and Public Relief
Board.

(2) The

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(2) The said Chairman or some officer of the said Board may appear at the hearing of the application and may tender evidence calculated to safeguard the interests of the child, and may address the Court or Judge on the whole of the evidence.

(3) Failure to give notice as provided by subsection (1) hereof shall not affect the validity of any order made under this Act by any Court or the validity of any variation, reversal, or discharge of any such order, but the said Chairman, in any case where an adoption order is made or varied without notice being given as aforesaid, may apply pursuant to section 14 for a variation, reversal, or discharge of the adoption order, and at the hearing of such application, the said Chairman or some officer of the said Board, may tender evidence calculated to safeguard the interest of the child and may address the Court or Judge on the whole evidence.

Amendment of
principal Act, s. 6—
Consent to adoption.

8. Section 6 of the principal Act is amended by adding at the end thereof thereof the following paragraph :—

and

VII. Where the consent of any person is required by this Act, and that person cannot be found, the Court may, after causing such inquiry to be made as it deems necessary, dispense with the consent of such person.

Amendment of
principal Act, s. 7—
Powers of Court.

9. Section 7 of the principal Act is amended by striking out the word “making” in the second line thereof and by inserting in lieu thereof the words “to which an application for”.

Amendment of
principal Act, s. 13—

10. Section 13 of the principal Act is repealed and the following sections are enacted in lieu thereof :—

Name of adopted
child.

13. Unless the Court for any special reason otherwise orders, an adopted child shall on the making of the adoption order bear the surname of the adopting parent. The adopted child shall also bear such other name or names as the Court may order.

Adopted Children
Register.

13A. (1) The Registrar-General of Births and Deaths shall establish and maintain at the General Registry Office a register to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.

(2) Every adoption order shall contain a direction to the Registrar-General to make in the Adopted Children Register an entry recording the adoption in the form set out in the Schedule hereto.

(3) There shall be produced to the Court with every application for an adoption order in respect of a child whose birth has been registered under the Registration of Births and Deaths Act, 1874, an extract of the entry of the birth, and the adoption order

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order in any such case shall direct the Registrar-General to cause any entry in the Register of Births relating to such child to be marked with the word "adopted".

(4) Where, in any application for an adoption order, the date of the child's birth is proved to the satisfaction of the Court, whether by production of an extract of the entry of the birth in the Register of Births or otherwise, the adoption order shall direct the Registrar-General to include in the entry in the Adopted Children Register recording the adoption the date stated in the order of the adopted child's birth in the manner indicated in the Schedule hereto. If the Court is satisfied that proof of the exact date of the child's birth cannot be given, but evidence is given to the satisfaction of the Court of the approximate date of the child's birth, the adoption order may direct the Registrar-General to include in the entry of the Adopted Children Register recording the adoption, the date (which shall be the approximate date as aforesaid) stated in the order of the adopted child's birth in the manner indicated in the Schedule hereto.

(5) The Court shall cause every adoption order to be communicated to the Registrar-General, and upon receipt of such communication the Registrar-General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Register of Births with the word "Adopted" and in regard to making the appropriate entry in the Adopted Children Register.

(6) An extract of any entry in the Adopted Children Register, if purporting to be sealed or stamped with the seal of the Registrar-General, shall, without any further or other proof of such entry—

- (a) where the entry does not contain any record of the date of the birth of the adopted child be received as evidence of the adoption to which the same relates; and
- (b) where the entry contains a record of the date of the birth of the adopted child be received not only as evidence of the adoption to which the same relates, but also as evidence of the date of the birth of the adopted child to which the same relates in all respects as though the same were a certified copy of an entry in the Register of Births.

(7) The Registrar-General shall cause an index of the Adopted Children Register to be made and kept in the General Registry Office of Births and Deaths, and every person shall be entitled to require a search of such index and to have an extract of any entry in the Adopted Children Register in all respects upon, and subject to the same terms, conditions, and regulations as to

payment

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payment of fees and otherwise as are applicable under the Registration of Births and Deaths Act, 1874, in respect of searches in other indexes kept in the General Registry Office, and in respect of the supply from such office of extracts of entries in the Registers of Births, Deaths, and Marriages.

(8) The Registrar-General shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary, to record and make traceable the connection between any entry in the Register of Births which has been marked "Adopted" pursuant to this Act and any corresponding entry in the Adopted Children Register, but such additional registers and books and any entry in the Register of Births marked as aforesaid shall not be, nor shall any index thereof, be open to public inspection or search, nor, except under an order of a Judge of the Supreme Court or the Master of the Supreme Court, shall the Registrar-General, the Deputy Registrar, or any District Registrar furnish any information contained in or any copy or extract from any such registers or books or entry in the Register of Births, or of any certificate of registration of birth filed in the office of any District Registrar, to any person other than an adopted child who has attained the age of seventeen years and to whom such information, copy, or extract relates. Every such order as aforesaid shall be made in a summary way and without payment of any Court fees. The Registrar-General shall, after making any entry in the Adopted Children Register, take such steps as may be necessary to secure that any certificates of registration of birth filed in the office of any District Registrar shall be so marked as to secure compliance with this subsection.

(9) The provisions of the Registration of Births and Deaths Act, 1874, with regard to the registration of names given after registration of birth, and with regard to the correction of erroneous entries, shall apply to the Adopted Children Register, and to registration therein in like manner as they apply to any Register of Births and to registration therein.

(10) The Registrar-General shall make in the Adopted Children Register an entry recording the adoption (in the form set out in the Schedule hereto) of every adopted child the fact of whose adoption by an adoption order is communicated to the Registrar-General by the Court prior to the passing of the Adoption of Children Act Amendment Act, 1931, and all the provisions of this section shall be deemed to apply to and in respect of every such adopted child.

Amendment of
principal Act, s. 14—
Discharge of order.

11. Section 14 of the principal Act is amended—

(a) by striking out the words "or reverse and" in the second line thereof and by inserting in lieu thereof the words "reverse or"; and

(b) by

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(b) by adding at the end thereof the following subsection :—

(3) Where an order of adoption is discharged the Court shall communicate to the Registrar-General of Births and Deaths the fact that the order has been discharged, whereupon the Registrar-General shall cancel the entry in the Adopted Children Register relating to the child the subject of the order. Upon such cancellation the provisions of section 13A shall cease to apply with respect to such child.

12. The principal Act is amended by inserting after section 17 the following section :—

Amendment of principal Act—

17A. Every application made under this Act to adopt a child or to vary, reverse, or discharge any order of adoption under this Act shall be heard in camera.

Proceedings to be heard in camera.

13. Paragraph (a) of subsection (2) of section 18 of the principal Act is hereby repealed.

Amendment of principal Act, s. 18 (2)—
Regulations.

14. The principal Act is amended by adding at the end thereof the following schedule :—

Amendment of principal Act—

THE SCHEDULE.

The Schedule.

	1.	2.	3.	4.	5.	6.
No. of Entry.	Name and Surname of Adopted Child.	Date of Birth where Adoption Order directs entry of date of Birth.	Sex.	Name and Surname, Occupation, and Address of Adopter or Adopters.	Date of Adoption Order and Description of Court by which made.	Date of Registration and Signature of Registrar-General.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

A. HORE-RUTHVEN, Governor.