



ADOPTION AMENDMENT ACT 1994

No. 24 of 1994

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**ADOPTION AMENDMENT ACT 1994**

No. 24 of 1994

AN ACT to amend the *Adoption Act 1988***[Royal Assent 10 May 1994]**

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title

1—This Act may be cited as the *Adoption Amendment Act 1994*.

Commencement

2—(1) Sections 1, 3, 4 (1) and 5 (1) and this section commence on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act commence on a date to be fixed by proclamation.

Principal Act

3—In this Act, the *Adoption Act 1988** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4—(1) Section 3 (1) of the Principal Act is amended by omitting “or aunt” from the definition of “natural relative” and substituting “aunt or child”.

(2) Section 3 (1) of the Principal Act is further amended by omitting the definition of “non-citizen child” and substituting the following definition:—

“non-citizen child” means a person who—

- (a) has not attained the age of 18 years; and
- (b) enters or has entered Australia and is not an Australian citizen; and
- (c) intends, or is intended, to be adopted in Australia or has been adopted in a country other than Australia but the adoption is not one to which section 60 applies; and
- (d) intends, or is intended, to become a permanent resident of Australia—

but does not include a person who enters Australia in the charge of, or for the purposes of living in Australia under the care of, a parent of the person or a relative of the person who has not attained the age of 21 years;

Section 29 amended (Consents required to adoption)

5—(1) Section 29 of the Principal Act is amended as follows:—

- (a) by omitting “child;” from subsection (3) (e) (i) and substituting “child; or”;
 - (b) by inserting after subparagraph (ii) of subsection (3) (e) the following subparagraph:—
 - (iiA) he is, or has at any time been, liable for child support for the child under the *Child Support (Assessment) Act 1989* of the Commonwealth;
- or

* No. 41 of 1988. Amended by No. 5 of 1990.

(2) Section 29 of the Principal Act is further amended by omitting “is—” and paragraphs (a) and (b) from subsection (6) and substituting “is the Director as guardian.”.

Section 30 amended (Manner of giving consent)

6—Section 30 (1) of the Principal Act is amended by omitting “except a guardian as mentioned in section 29 (6),” and substituting “other than the Director,”.

Section 31 amended (Requirements to be complied with)

7—Section 31 (1) of the Principal Act is amended by omitting “who is not a guardian as mentioned in section 29 (6)—” and substituting “other than the Director—”.

Section 32 substituted

8—Section 32 of the Principal Act is repealed and the following section is substituted:—

Consent by Director as guardian

32—A consent by the Director as guardian of a non-citizen child is given in accordance with this Division where the Director has signed the prescribed form of consent and a declaration that the Director believes on reasonable grounds that the child was given for adoption in accordance with the law of the country in which the child was residing at the time when the child was placed in the care of the prospective adoptive parents.

Section 42 substituted

9—Section 42 of the Principal Act is repealed and the following section is substituted:—

Guardianship of non-citizen child

42—(1) Where a non-citizen child is present in Tasmania, the Director is to be the guardian of the child for all purposes to the exclusion of all other persons until—

- (a) an adoption order is made in respect of the child;
- or

(b) the Director ceases to be the guardian of the child as mentioned in section 40 (1).

(2) For the purposes of subsection (1), a non-citizen child is taken to be a child to whom sections 40 (1) and 41 apply.

Section 47 amended (Supervision of certain children adopted overseas)

10—Section 47 (1) of the Principal Act is amended as follows:—

- (a) by omitting “and” from paragraph (e) and substituting “or”;
- (b) by omitting paragraph (f) and substituting the following paragraph:—
 - (f) until an adoption order is made in respect of the child or the child otherwise ceases to be subject to the Director’s guardianship under this Act.

Section 48 amended (Supervision of certain non-citizen children)

11—Section 48 (1) of the Principal Act is amended as follows:—

- (a) by omitting “and” from paragraph (a) and substituting “or”;
- (b) by omitting paragraph (b) and substituting the following paragraph:—
 - (b) until an adoption order is made in respect of the child or the child otherwise ceases to be subject to the Director’s guardianship under this Act.

Transitional provision

12—The amendments made by this Act, except sections 4 (1) and 5 (1), apply to non-citizen children present in Tasmania on or after the date fixed under section 2 (2).

*[Second reading presentation speech made in:—
House of Assembly on 25 November 1992
Legislative Council on 23 March 1993]*

