

# Adoption Bill

## EXPLANATORY MEMORANDUM

### Outline

This Bill repeals the *Adoption of Children Act 1964* and the largely unproclaimed *Adoption of Children (Information Act) 1980*. It follows an extensive report from the Adoption Legislation Review Committee, a committee appointed in 1978 by the then Minister for Community Welfare Services and Attorney-General to review adoption legislation and practice. Wide community consultation has occurred since the report of the Committee was tabled on 1 June 1983.

A substantial part of the *Adoption of Children Act 1964* is incorporated in this Bill. In addition, major provisions introduced include that:

- The wishes of a child are to be ascertained where practicable and the welfare and interest of a child are to be the paramount consideration in the administration of the Bill.
- Adult adoptees are to receive a copy of their original birth certificate on application through the Director-General of Community Welfare Services to the Government Statist. Counselling services are available. Adult adoptees may also receive information about themselves from the records of adoption agencies and other organizations.
- Aboriginal adoptions are to involve an Aboriginal agency and requirements for counselling and the choice of suitable adoptive parents are set out.
- Procedures for taking and witnessing consent are to be formalized and requirements for information giving and counselling are specified.
- Adoption agencies are to be registered by the Director-General for a period of three years or longer as prescribed.
- Conditional consents and adoption orders are to be available in addition to the more traditional adoption where there is total severance of information exchange and contact.
- Inter-country adoption arrangements are to be regulated and the provisions for recognition of overseas adoption orders expanded.
- The Department of Community Welfare Services is to maintain an Adoption Information Register and facilitate information exchange and/or contact between persons who may register in accordance with rights to information specified in the Bill.
- The consent of a father not married to the mother is to be required in specified circumstances before adoption can proceed.
- Subsidies may be paid to families adopting a child where this will assist the child to be suitably placed.
- Defacto* couples who have been together for two years will be eligible to adopt. This is consistent with the provisions applicable to married couples, including tribal marriages.

A related Bill, the Children (Guardianship and Custody) Bill 1984 enables guardianship and/or custody to be obtained by the spouse or relatives of a natural parent instead of adoption. Adoption by a spouse or relative will still be allowed in cases where this best meets a child's circumstances.

## Notes on Clauses

(Section numbers in brackets refer to the *Adoption of Children Act 1964*.)

### PART I.—PRELIMINARY

*Clause 1* gives the short title and recognizes that provisions are included relating to adult adopted persons as well as children.

*Clause 2* provides for proclamation in stages.

*Clause 3* provides for repeal of existing Adoption Acts, for amendments to related Acts and for continuity of arrangements, orders, and effects of previous and current enactments. (S3 ACA 1964)

*Clause 4* provides for the interpretation of terms, persons, offices, delegations or assignment of an office and the calculation of periods of time. (S4 ACA 1964)

*Clause 5* provides for the publication in the *Government Gazette* of approved counsellors who are to be drawn from specified classes of persons.

*Clause 6* gives jurisdiction to the Supreme or County Courts and for the making of rules of procedure and incidental matters. (S5 ACA 1964)

*Clause 7* provides for the Court to make orders where the applicants are resident or domiciled in Victoria and the child present in Victoria or in respect of children born in Victoria and under guardianship in Victoria for the purpose of arranging adoption. (S6 ACA 1964)

*Clause 8* requires that an adoption order be dependent on fact or circumstance specified in this Act. (S7 ACA 1964)

*Clause 9* provides that the welfare and interests of the child be the paramount consideration and extends this to all Parts of the Act. (S8 ACA 1964)

### PART II.—ADOPTIONS UNDER THIS ACT

#### Division 1—General

*Clause 10* allows for the adoption of children under eighteen years, and those over eighteen years who have been raised by the applicants under a defacto adoption. Children previously adopted are included. (S9 ACA 1964)

*Clause 11* sets out the categories of persons who may adopt; includes a man and woman whose relationship is recognized as a traditional Aboriginal marriage; single persons or in special circumstances, a man and woman living in a *bona fide* domestic basis where this is desirable for the child; requires that the marriage or relationship be in existence for a minimum of two years; provides that where a spouse of a natural parent or adoptive parent is to adopt, the order for adoption relates solely to the spouse without terminating that natural parent's or adoptive parent's relationship and establishes the natural parent or previous adoptive parent and spouse as the parents of the child as if the child was born to them. Before making an adoption order for a spouse the Court is to be satisfied that adoption better serves the welfare and interests of the child than guardianship. (S10 ACA 1964)

*Clause 12* requires the Court to consider first whether a guardianship order is more appropriate where an application to adopt is made by a relative of the child.

*Clause 13* requires the age of adopters to be not less than eighteen years and with an age gap between a child and each adopter of not less than eighteen years nor more than 40 years

for a child under ten years and 45 years where the child has attained the age of ten years unless the needs of the child require otherwise. (S11 ACA 1964)

*Clause 14* provides a requirement that as far as practicable, the wishes and feelings of a child be ascertained and considered by the Court before making an order.

*Clause 15* requires a report to Court by or on behalf of the Director-General or Principal Adoption Officer before the making of any order which satisfies the Court as to the suitability of the applicants on matters to be prescribed in regulations; that consideration be given by the Director-General or Principal Officer to the wishes expressed by a parent about the religion, race and ethnic background of the adopters and in respect of access to or information about the child and that the adoption promotes the child's welfare and interests; these requirements do not apply where the person to be adopted is over eighteen years although special circumstances must make the adoption desirable. (S12 ACA 1964)

*Clause 16* requires that notice be served in accordance with the rules of the certain persons and others determined by the Court before the Court makes an adoption order unless the Court dispenses with giving notice. (S13 ACA 1964)

*Clause 17* provides for the Court on application, to permit persons to be joined as parties to oppose the granting of an adoption order or the dispensation of a consent. (S14 ACA 1964)

*Clause 18* provides for the Court to make orders for the care and control of the child where an application to adopt is refused. (S15 ACA 1964)

*Clause 19* allows the discharge of adoption orders and interprets the existence of special circumstances to include the irretrievable breakdown of the relationship between adoptive parents and adopted persons; states the persons who may institute an application to discharge an adoption order and allows applications to be made direct to Court which, if satisfied there may be grounds, directs that an investigation be made by the Director-General and where necessary, the Secretary, Law Department. Where a Court makes an order of discharge, consents to adoption are revoked and consequential orders made relating to the welfare and interests of the child. (S16 ACA 1964)

## **Division 2—Arrangement of Adoptions**

*Clause 20* requires that arrangements for adoption are made only by or on behalf of the Director-General of Community Welfare Services or the Principal Officer of an approved adoption agency. (S17 ACA 1964)

*Clause 21* provides for welfare organizations to seek to be approved adoption agencies and to nominate a principal officer and deputy principal officer and requires notice of an application to be published in the *Government Gazette*. (S18 ACA 1964)

*Clause 22* provides for the Director-General to grant approval of or refuse an application to be an adoption agency and in exercising power to revoke or suspend approval of an agency. (S19 ACA 1964)

*Clause 23* provides for approving an agency to undertake inter-country adoption arrangements.

*Clause 24* allows for revocation or suspension of an approved agency, including an agency undertaking inter-country arrangements. (S20 ACA 1964)

*Clause 25* provides that the period of approval of an agency be for three years or a longer period where prescribed.

*Clause 26* allows agencies to apply for renewal of approval, for notice of application in the *Government Gazette* and for the Director-General to grant or refuse the application.

*Clause 27* makes provision for records, documents and guardianship of a child to be transferred to the Director-General or with the Director-General's approval to another approved agency when an adoption agency ceases to be approved, or approval is suspended, allowing arrangements to continue.

*Clause 28* makes similar provisions for the agency approved to make inter-country arrangements.

*Clause 29* covers the consequences of ending suspension.

*Clause 30* provides for notification of approval, revocation or suspension of approval to be published in the *Government Gazette*. This is to include names of the deputy Principal Officer as well as the Principal Officer. (S21 ACA 1964)

*Clause 31* deems acts done by the deputy Principal Officer as well as the Principal Officer to be those done by the agency. (S22 ACA 1964)

*Clause 32* emphasises adoption as a service for children.

### **Division 3—Consents to Adoptions**

*Clause 33* sets out whose consents are required or are to be dispensed before an order of adoption is made by a Court, and includes those of the mother and father of a child under eighteen years whether or not they are married at the time of the conception or before the birth of the child. A father's paternity is established under stated circumstances. The consent of a guardian, not being a parent, is no longer to be a requirement, except where the child is a non-citizen and under guardianship under the Commonwealth *Immigration (Guardianship of Children) Act* 1966. (S23 ACA 1964)

*Clause 34* makes provision for the manner of taking and witnessing consents of parents to adoption and ensures that parents make their decision after having received in writing, information as to the effect of an adoption order, and about alternatives and support services available; requires written information to be given seven days before a consent is signed which period may be reduced to 24 hours where the person taking consent determines special circumstances exist. The person taking consent is to be a Court official and the witness a person authorized by the Director-General or Principal Officer; consents taken in another State or Territory of Australia or overseas on behalf of the Director-General or Principal Officer are to follow the new procedures.

*Clause 35* makes provision for counselling and written information to be given before a consent is signed and for a certificate to be provided as to compliance, with an exemption for consents taken outside Victoria.

*Clause 36* provides for the guardian of a non-citizen child to make a declaration regarding the consents or unavailability of consents and circumstances for dispensing consent.

*Clause 37* provides for parents of a child who is to be adopted within the Aboriginal community to sign consents which allow for access by the natural parents and/or relatives and members of the child's Aboriginal community; and for adoptive parents to provide information about the child to the Director-General or Principal Officer which is to be given to the parent at periods to be specified. Where adoption arrangements in accordance with the conditions specified cannot be made, the parent is to be informed and may vary or revoke consent within 28 days; where the parent fails to vary or revoke consent, an application to the Court may be made and the Court may vary the conditions of the consent after considering a report from an Aboriginal agency.

*Clause 38* requires that where a child is no longer being considered for adoption, each parent who has consented is to be notified and may revoke consent within 56 days. Where no revocation is received, a consent is revoked when guardianship ceases after 140 days (refer clause 46 (1) (e)).

*Clause 39* provides for consents to adoption to be general and made before the adopters are selected but where a spouse of a natural parent or a relative is the adopter, the consent is specific to an application by that spouse or relative. (S24 ACA 1964)

*Clause 40* makes provision for consents taken in accordance with laws of other States and Territories of the Commonwealth to be valid for the purposes of adoption in Victoria. (S25 ACA 1964)

*Clause 41* makes provision for a period for revocation of consent of 28 days and allows for an extension of fourteen days; where a parent has been notified that a child is no longer being considered for adoption, the period for revocation of consent is 56 days; includes the manner of service of notice. (S26 ACA 1964)

*Clause 42* makes provisions which prevent adoption orders being granted where consents are improperly obtained, altered or revoked or a parent is not in a fit condition. A period of fourteen days after birth is to elapse before a consent may be signed. A Court may order a shorter period where this is in a child's best interests. Consents taken under existing legislation remain valid. (S28 ACA 1964)

*Clause 43* provides for a parent's consent to be dispensed with by a Court, the grounds for dispensing with a consent and the evidence required for certain grounds; allows the Director-General or Principal Officer to make application to a Court for a dispensation order prior to making adoption arrangements and for a Court to revoke such an order any time prior to the granting of an adoption order. (S29 ACA 1964)

*Clause 44* requires that parents who have given consent be notified when stages of the arrangements for adoption are completed; where a child dies before an adoption order has been granted; or where adoption arrangements are not to proceed; allows a parent to request in writing not to receive notification except where arrangements for adoption are not to proceed.

#### **Division 4—Care of Child**

*Clause 45* makes provision for the Director-General or Principal Officer to arrange for the day to day care of a child pending establishment of eligibility for adoption. This authority is for periods of 6 months which in total are not to exceed 18 months and ceases when stipulated events occur.

*Clause 46* provides for guardianship of children by the Director-General or Principal Officer until certain events occur except that this guardianship does not operate where the child is the subject of a consent specifying the spouse of a natural parent or a relative or under welfare guardianship; gives authority to the Director-General or Principal Officer to transfer guardianship to equivalent officers in other States or Territories of the Commonwealth and to receive transfers. (S31 ACA 1964)

*Clause 47* provides for an application to be made to Court for guardianship of a non-citizen child who has no guardian in Australia and for whom adoption arrangements are being made.

*Clause 48* provides for visits by parents after consent has been signed and before the revocation period has ended.

#### **Division 5—Court to be satisfied as to Certain additional matters**

*Clause 49* requires that the consents of both mother and father be given or dispensed by a Court; where no paternity has been established but the father's identity is known, the Director-General or principal officer is to send notification to the putative father who may take steps to establish paternity before the revocation period has ended.

*Clause 50* gives particular attention to the adoption of an Aboriginal child and requires the involvement of an Aboriginal agency (subject to the parents' written wishes); and that a placement priority be followed so that the child is placed within its own or another Aboriginal community; where this is not possible, an Aboriginal child may only be placed with adoptive applicants also approved by an Aboriginal agency which is defined.

*Clause 51* makes provision that before an adoption order is made in respect of a child from another country, the Court is to be satisfied as to the general suitability of the applicants and that they have been approved for inter-country adoption or there has been supervision of a placement of less than 12 months duration by the Director-General or by an adoption agency arranged to undertake inter-country arrangements. Introduces fee for supervision.

### **PART III.—ADOPTION ORDERS UNDER THIS ACT**

#### **Division 1—General**

*Clause 52* provides for the issue of a certificate of adoption.

#### **Division 2—Effect of Adoption Orders**

*Clause 53* states the effect of an adoption order. (S32 ACA 1964)

*Clause 54* makes provisions regarding disposition of property and takes account of enactments prior to the *Adoption of Children Act 1964*. (S33 ACA 1964)

*Clause 55* establishes procedures by which a testator may include a person adopted out of their family in the disposition of property.

*Clause 56* makes provisions for the surname of the child to become that of the adopters or one of the adopters and requires the Court to be satisfied that consideration has been given to the wishes of the child before approving the surname and forename of the child. (S34 ACA 1964)

*Clause 57* provides that the child acquires the domicile of the adopters. (S35 ACA 1964)

*Clause 58* makes provision for the protection against liability of trustees in the distribution of property unless notice is given. (S36 ACA 1964)

#### **Division 3—Adoption Orders subject to conditions**

*Clause 59* allows a Court to grant adoption orders which include conditions of access and provision of information where, in respect of an Aboriginal child, this is specified in the consent or, in other applications, the age and circumstances of the child make this desirable and the natural and adoptive parents agree.

*Clause 60* provides for conditions to be varied by a Court on application by an adoptive parent, natural parent or by or on behalf of an adoptee but any variation of access is not to give greater rights unless agreed by the adopters; an application shall be accompanied by a counsellor's report.

*Clause 61* provides for conditions to cease when revoked or the adopted person attains the age of 18 years.

#### **Division 4—Interim Orders**

*Clause 62* allows the Court to postpone a decision on an application to adopt and make an interim order which may include conditions, in favour of any person to whom the Court could grant an adoption order; provides for the care and custody of the child to be given to the person in whose favour the interim order is made. (S37 ACA 1964)

*Clause 63* provides that an interim order may remain in force for periods up to one year but not exceed 2 years in aggregate. (S38 ACA 1964)

*Clause 64* allows for the discharge of an interim order and for making orders for care and control; provides for the interim order to cease on the granting of an adoption order within Australia. (S39 ACA 1964)

#### **PART IV.—RECOGNITION OF ADOPTIONS**

*Clause 65* defines a country to include part of a country. (S40 ACA 1964)

*Clause 66* recognises adoptions made in accordance with the laws of other States or Territories of Australia and in New Zealand as if they had occurred in Victoria. (S41 ACA 1964)

*Clause 67* provides for recognition of adoption orders made outside Australia and New Zealand where the effect of the order is to make the adopter(s) the parents of the child; and provides for proclamation by the Governor in Council of adoptions under the law of a particular country with allowance for a Court to refuse to recognize an adoption which involved denial of natural justice. (S42 ACA 1964)

*Clause 68* makes provision for the Director-General to supervise any child adopted in a country other than Australia or New Zealand where the adoption has been in force for less than 12 months and the adopter(s) were not nationals of the country in which the order was made; gives power to exempt from supervision or reduce the time proportionately where the child and adopter(s) have been resident in another State/Territory in Australia or New Zealand. The period of supervision is 6 months where the adopter(s)' application to adopt was approved by the Director-General or Principal Officer prior to the adoption and 12 months when the adopter(s) did not obtain prior approval.

*Clause 69* makes provision for applications to a Court for recognition of an overseas adoption order and that the Director-General is to be served with notice of the application and that a certificate is to be issued to the adoptive parents. (S43 ACA 1964)

#### **PART V.—REGISTRATION OF ORDERS**

*Clause 70* provides for the Court to inform the Government Statist when an adoption order or discharge of an order is granted and when a child is an Aborigine, and for the Statist to make entries to the Register of Adoptions and Adopted Children Register. (S57 ACA 1964)

*Clause 71* provides for notification to other States, Territories or countries where the child was born outside Victoria. (S58 ACA 1964)

*Clause 72* provides for the Government Statist to amend birth registration on notification from another State or Territory of an adoption order or discharge of an order of a child born in Victoria. (S59 ACA 1964)

*Clause 73* provides for the Government Statist to register an overseas adoption order recognised by a Court for persons born in Victoria.

*Clause 74* requires the Government Statist to mark “adopted” on previous birth or adoption records on the granting of an adoption order and not open these for inspection or search except under provisions of this Act.

*Clause 75* requires the Government Statist to maintain an index to entries in the Register of Births and Adopted Children Register which is not open for inspection or search except under provisions of this Act.

*Clause 76* provides for the Government Statist to issue to the Director-General, extracts or certified copies of entries which are not open to inspection or search where an application for information has been made under provisions of Part VI. of this Act.

*Clause 77* provides for entries from the Adopted Children Register to be made in the General Index of Births without distinguishing these from entries from the Register of Births.

*Clause 78* allows the Government Statist to issue extracts or certified copies from the Adopted Children Register.

*Clause 79* makes provision for adopted persons and adoptive parents of adoptees under 18 years to obtain a certificate or endorsement giving place of birth.

*Clause 80* provides for extracts or copies of entries in the Register of Births to remain unavailable on the discharge of an adoption order where this is included in the order of discharge.

*Clause 81* provides for the correction of errors.

## **PART VI.—ACCESS TO INFORMATION**

### **Division 1—General**

*Clause 82* interprets an “adopted person” to include persons adopted in Victoria or adopted elsewhere but born in Victoria; “agency” to mean an approved adoption agency under previous enactments, and relevant authority to include Director-General, approved adoption agencies in respect of their own records and other agencies declared by the Director-General for specific cases or periods of time.

*Clause 83* restricts access to Court reports and to records of the Director-General or an agency, except as provided in this Act. (S61 ACA 1964).

*Clause 84* makes provision enabling applicants to adopt through the Director-General or an approved agency to obtain access to their application in accordance with the *Freedom of Information Act* 1982.

*Clause 85* provides that adoption records be maintained and preserved and for details of each adoption negotiated or arranged to be given to the Director-General; that organizations which have adoption records under previous enactments may voluntarily transfer these to the Director-General, and that a penalty be incurred by persons who destroy or conceal records.

*Clause 86* allows the Director-General to apply to and receive information from Court records.

*Clause 87* requires that an applicant for information attend an interview with an approved counsellor prior to information being supplied and for the Director-General or approved agency to make known the availability of counselling services to persons seeking information or contact.

*Clause 88* protects information relating to the personal affairs of others except as permitted under this Act.



*Clause 89* provides that information of a medical or psychiatric nature may be disclosed by the Director-General to a medical practitioner.

*Clause 90* requires that the Director-General give information in accordance with the Act to an applicant from records in the possession or control of the Director-General or from records of another agency, person or other body. The agency, person or other body may provide the information direct to the applicant. Where information sought is not contained in records, the Director-General is required to make reasonable enquiries to obtain it.

## **Division 2—Persons entitled to Birth Certificates or information**

*Clause 91* defines information about an adopted person as information that the Director-General is satisfied is reasonably likely to be true, does not unreasonably disclose information about the personal affairs of a third party, and is unidentifying unless the context of a section requires otherwise.

*Clause 92* relates to the provision of extracts from or copies of entry of birth of adopted persons of any age, born in Victoria and provides for these to remain available to adopted persons, adoptive parents and natural parents where the adoption orders are granted to the spouses of natural parents, relatives or spouses of relatives; provides for adopted persons 18 years or more to make application to the Director-General and for the Government Statist to supply the extract or copy of entry of birth; provides where the adopted persons were not born in Victoria, for the extracts or copies of entries of birth to be made available from the records of the Director-General, Court or others to adopted persons eighteen years or over, or at any age where the orders include conditions or are made in favour of spouses or relatives. Extracts or copies of entry of birth issued by the Government Statist are to be marked “adopted”.

*Clause 93* makes provision for information from the records relating to adoptions to be made available to adopted persons aged 18 years or more.

*Clause 94* provides for adopted persons under the age of 18 years to receive information of a non-identifying nature about their natural parents. Where the written agreement of both the adoptive parents and natural parents or evidence of death is available, information which identifies the natural parent may be given.

*Clause 95* provides for natural parents to be given unidentifying information about the adopted person under 18 years. Information from which adoptive parents may be identified is available only after consideration of the wishes expressed by the adoptee and the agreement of the adoptive parents or evidence of death and may be subject to conditions.

*Clause 96* provides for natural parents to be given unidentifying information about an adopted person of 18 years or over. Information from which the adopted person may be identified requires the agreement of the adopted person and may be subject to conditions, or evidence of death of the adoptee.

*Clause 97* provides for natural relatives, i.e. grandparents, brother, sister, uncle or aunt to be given unidentifying information about the adopted person. Identifying information is to be given only when the Director-General is satisfied that circumstances exist which make it desirable and with the agreement, subject to conditions, of the adult adopted person. Where the adopted person is under 18 years of age, their wishes are taken into account and the agreement of the adoptive parents, or evidence of death is required.

*Clause 98* provides for an adoptive parent to be given unidentifying information about the natural parent relevant to the adopted person and identifying information where the natural parent agrees, subject to conditions, or evidence of death.

*Clause 99* permits persons unable to obtain information under provisions in the Bill to apply to the County Court for information. The application to Court is to be accompanied

by a report from an approved counsellor. The Court may order specified information to be made available where it is satisfied that reasonable steps have been taken to obtain agreement of the other person, that the disclosure of information is in the interests of the applicant and that special circumstances exist which make it desirable to do so. Anonymity is to be given to parties who attend a hearing.

*Clause 100* permits persons who are not entitled to obtain information under this Bill to apply to the County Court for information. This application is to be accompanied by a report from an approved counsellor and the Court may direct information be released if it is satisfied that circumstances exist which make it desirable to do so.

### **Division 3—Adoption Information Service**

*Clause 101* defines “adopted person” for the purposes of this Division to include a person adopted outside Victoria.

*Clause 102* requires that an Adoption Information Service be established within the Department of Community Welfare Services with functions which include counselling and facilitating the provision of information including that relating to persons adopted outside Victoria.

*Clause 103* requires the Director-General to maintain an Adoption Information Register and incorporates the register established under the *Adoption of Children (Information) Act 1980*. Provides for the recording of names of adopted persons, natural parents, adoptive parents and relatives of adopted persons and their views about information exchange or contact. Makes provision for the correct name and address of the registrant on the Adoption Information Register not to be divulged without the authority of the registrant and for the Director-General to publicise the existence and purpose of the Register.

*Clause 104* requires the Director-General to make reasonable enquiries to respond to information requests about persons adopted outside Victoria.

## **PART VII.—MISCELLANEOUS**

### **Division 1—General**

*Clause 105* provides for the Director-General to make subsidy payments to adoptive parents of children with special needs prior and subsequent to the granting of an adoption order.

*Clause 106* provides for a child to have separate legal representation in certain circumstances and for the Court, the Director-General, Principal Officer or other child welfare organizations to secure separate legal representation for the child.

*Clause 107* provides for hearings to be in camera and for the Court to exclude the child or other persons from the Court. (S60 ACA 1964)

*Clause 108* allows the Director-General to appear at hearings or appoint a person to do so. (S63 ACA 1964)

*Clause 109* makes provision for costs not to be ordered unless the Court is satisfied that special circumstances exist that make it desirable to do so. (S64 ACA 1964)

*Clause 110* provides for judicial notice of the signature of a person in the position of Director-General. (S65 ACA 1964)

*Clause 111* directs that a certified copy of an adoption order or entry in a public official record shall be *prima facie* evidence of the order. (S66 ACA 1964)

*Clause 112* provides for the Director-General or Principal Officer to charge prescribed fees in relation to an application to adopt a non-citizen child and for refund of the whole or part of the fee when a proposal to adopt a child is not proceeding.

*Clause 113* enables the Director-General or Principal Officer to waive or reduce fees that would otherwise be payable.

*Clause 114* provides for the Government Statist to notify the Aboriginal agency and the Director-General when an Aboriginal adoptee reaches the age of 12 years and for the adoptee and adoptive parents to be informed of rights and benefits which exist.

*Clause 115* provides for adoption of children outside Australia.

## **Division 2—Offences**

*Clause 116* limits the application of this part to acts done in Victoria. (S44 ACA 1964)

*Clause 117* renders it an offence for a father, mother or guardian who is no longer to be treated in law as a parent or guardian of a child to take away a child from adoptive parents. (S45 ACA 1964)

*Clause 118* makes it an offence for a person to harbour a child on behalf of a person who has contravened Clause 117. (S46 ACA 1964)

*Clause 119* renders it an offence to make or receive payment for the adoption of a child, the giving of consent, the transfer of a child with a view to adoption or the making of an arrangement with a view to adoption. Payments for legal expenses, authorized fees and payments approved by the Director-General or Court are exempted as are payments made in connection with the adoption of a child under the law of another State or Territory where this would have been lawful in that State or Territory. (S47 ACA 1964)

*Clause 120* provides that it is an offence to publish or cause to be published matter indicating that a parent wishes to have a child adopted, a person wishes to adopt a child or a person is willing to make adoption arrangements unless approval has been given by the Director-General or Principal Officer. (S48 ACA 1964)

*Clause 121* makes it an offence to publish the identity of an applicant, child or parent or matter reasonably likely to enable any of those persons to be identified. This does not apply to publication of matter with the authority of the Court or by a person who has obtained that information under Part VI. Application may be made to the Court for authority to publish where the adopted person concerned is over 18 years of age and the applicant is a relative. (S49 ACA 1964)

*Clause 122* provides that it is an offence to make unauthorized adoption arrangements or receive a child into care with a view to adoption. This does not apply to spouse or relative adoptions. (S50 ACA 1964)

*Clause 123* provides for a penalty of 10 units for an approved agency, other body or person that does not comply within a prescribed period with a request by the Director-General for information.

*Clause 124* renders it an offence to make an oral or written false statement in relation to any matter under this Bill. (S51 ACA 1964)

*Clause 125* renders it an offence for any person to falsely represent himself as a person whose consent is required to an adoption. (S52 ACA 1964)

*Clause 126* provides that it is an offence to present to Court an instrument of consent knowing that the signature is forged or obtained by fraud or duress, or the instrument has been altered after it is signed otherwise than by the person signing it. (S53 ACA 1964)

*Clause 127* provides that a person shall not witness a consent to adoption except in accordance with this Bill. (S54 ACA 1964)

*Clause 128* provides for a penalty of not more than 25 units or six months imprisonment where no specific penalty is expressed. (S55 ACA 1964)

*Clause 129* requires proceedings to be brought by or with the consent of the Director of Public Prosecutions (S56 ACA 1964)

### **Division 3—Regulations**

*Clause 130* allows the prescription of regulations for the administration of the Act, and other matters including qualifications and experience of persons engaged in making arrangements for adoption; registration and other administrative fees; appeal mechanisms for applicants to adopt. (S67 ACA 1964)