



Queensland

Adoption and Other Legislation Amendment Act 2016

Act No. 57 of 2016

**An Act to amend the Adoption Act 2009, and the Acts mentioned in
schedule 1, for particular purposes**

[Assented to 11 November 2016]

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Adoption and Other Legislation Amendment Act 2016*.

Part 2 Amendment of Adoption Act 2009

2 Act amended

This part amends the *Adoption Act 2009*.

Note—

See also the amendments in schedule 1.

3 Insertion of new s 9A

Part 1, division 2—

insert—

9A References to person's spouse if living separately and apart

For this Act, if a person and the person's spouse have separated and are living separately and apart, the spouse is taken not to be the person's spouse.

4 Amendment of s 19 (Time of consent)

(1) Section 19, after 'not be given'—

insert—

[s 5]

before the latest of the following days

- (2) Section 19(a) to (c), ‘less than’—

omit, insert—

the day that is

- (3) Section 19(a) to (c), at the end, ‘or’—

omit.

- (4) Section 19(d)—

omit, insert—

(d) the day that is 14 days after the last day the parent receives counselling under section 24;

(e) the day the counsellor swears the statement mentioned in section 175(3)(b).

5 Amendment of s 60 (Chief executive may place child in parents’ care)

Section 60(1)(b)—

omit, insert—

(b) it is at least 30 days since, for at least 1 of the child’s parents, the parent consented to the child’s adoption or the need for the parent’s consent was dispensed with; and

6 Insertion of new s 61A

After section 61—

insert—

61A Effect of child’s death on chief executive’s guardianship

The chief executive’s guardianship of a child under section 57 does not end because the child dies.

7 Amendment of s 68 (Who may make an expression of interest)

Section 68(1) and (2)—

omit, insert—

- (1) A person may make an expression of interest in being assessed for suitability to be an adoptive parent.
- (2) If a person has a spouse, the person must make an expression of interest jointly with the person's spouse.

8 Amendment of s 69 (Form)

(1) Section 69(1), 'A couple make'—

omit, insert—

A person makes

(2) Section 69(1), before 'notice'—

insert—

signed

(3) Section 69(2)—

omit, insert—

- (2) The form must also be signed by each person who is, at the time the form is given to the chief executive, an adult member of the household of the person making the expression of interest.

(4) Section 69(3), 'member of the couple'—

omit, insert—

person making the expression of interest

(5) Section 69(3)(a), 'his or her'—

omit, insert—

the person's

[s 9]

- (6) Section 69(4), ‘couple are’—
omit, insert—
person making the expression of interest is

9 Amendment of s 70 (Nomination relating to local or intercountry adoption)

- (1) Section 70(2), ‘couple’s’—
omit, insert—
person’s
- (2) Section 70(2), ‘couple wish’—
omit, insert—
person wishes

10 Amendment of s 71 (Other requirements for expressing an interest)

- (1) Section 71(1) and (2), ‘couple’—
omit, insert—
person
- (2) Section 71(2)(b)(i)—
omit, insert—
- (i) an ability to personally care for a child full-time for a stated period after the child is placed with the person; or

11 Amendment of s 73 (Changes to current expression of interest or relevant information)

- (1) Section 73(1) and (2), ‘A couple’—
omit, insert—
A person

(2) Section 73(1)(a), ‘their’—

omit, insert—

the person’s

(3) Section 73(1)(a), ‘they are’—

omit, insert—

the person is

(4) Section 73(1)(b), ‘they wish’—

omit, insert—

the person wishes

(5) Section 73—

insert—

- (3) If a person made an expression of interest jointly with the person’s spouse, the person or the spouse may act under subsection (1) or (2) in relation to the couple’s expression of interest.

12 Amendment of s 75 (Expression of interest register)

Section 75(2)(a) and (b)—

omit, insert—

(a) for a person who has a spouse—

(i) the person and the spouse make an expression of interest jointly under division 2; and

(ii) the chief executive is satisfied the person and the spouse are eligible to have their names entered in the expression of interest register; or

(b) for another person—

(i) the person makes an expression of interest under division 2; and

[s 13]

- (ii) the chief executive is satisfied the person is eligible to have the person's name entered in the expression of interest register.

13 Amendment of s 76 (Eligibility for inclusion in register)

- (1) Section 76(1), 'his or her'—

omit, insert—

the person's

- (2) Section 76(1)(d), 'for a woman,'—

omit.

- (3) Section 76(1)(e) and (ea)—

omit, insert—

- (e) the person is not an intended parent under a surrogacy arrangement within the meaning of the *Surrogacy Act 2010*; and

- (ea) for a person who has been an intended parent for a surrogacy arrangement within the meaning of the *Surrogacy Act 2010*—the surrogacy arrangement ended at least 6 months earlier; and

- (4) Section 76(1)(g) and (h)—

omit, insert—

- (h) for a person who has a spouse—

- (i) the person and the spouse made an expression of interest jointly under division 2; and

- (ii) the spouse is also eligible under paragraphs (a) to (g); and

- (iii) the person and the spouse are living together.

- (5) Section 76(1)(ea) and (f)—

renumber as section 76(1)(f) and (g).

- (6) Section 76(2), ‘Subsection (1)(f)’—

omit, insert—

Subsection (1)(g)

- (7) Section 76—

insert—

- (3) A person who made an expression of interest jointly with the person’s spouse is not eligible to have the person’s name remain in the expression of interest register if the spouse stops being the person’s spouse.

14 Amendment of s 77 (Notice and information to persons entered in register)

- (1) Section 77, ‘couple’s names’—

omit, insert—

person’s name

- (2) Section 77, ‘them’—

omit, insert—

the person

- (3) Section 77(a), ‘their names have’—

omit, insert—

the person’s name has

15 Amendment of s 79 (Automatic removal from register)

- (1) Section 79(1)(a), ‘and the person’s spouse have’—

omit, insert—

has

- (2) Section 79(1)(c), before ‘the name’—

[s 16]

insert—

for a person who made an expression of interest
jointly with the person's spouse—

16 Amendment of s 80 (Other removal from register)

(1) Section 80(1)(a)—

omit, insert—

(a) the person is not eligible to have the
person's name remain in the register; or

(2) Section 80(7), 'woman'—

omit, insert—

person

(3) Section 80(7), 'her'—

omit, insert—

the person's

(4) Section 80(7), 'she'—

omit, insert—

the person

17 Amendment of s 89 (Selection to meet needs of particular child)

(1) Section 89—

insert—

(3A) If the child has a long-term guardian, the chief
executive may select the long-term guardian.

(2) Section 89(6)(c)—

omit.

(3) Section 89(7)(b)(v)—

omit, insert—

(v) for a person who has a spouse, the person and the spouse are living together.

(4) Section 89(3A) to (8)—
renumber as section 89(4) to (9).

18 Amendment of s 92 (Who may apply)

(1) Section 92(1)(h)—
omit.

(2) Section 92(1)(i)—
renumber as section 92(1)(h).

(3) Section 92(2), ‘subsection (1)(i)’—
omit, insert—
subsection (1)(h)

19 Insertion of new s 95A

Part 5, division 1—
insert—

95A Withdrawal of application

A person who has made an application under section 92 may withdraw the application at any time by giving the chief executive notice of the withdrawal.

20 Replacement of s 100 (Lapsing of application)

Section 100—
omit, insert—

100 Automatic lapsing of application

The application lapses if, for a continuous period of 6 months—

[s 20]

- (a) under section 99, the chief executive must not deal further with the application; and
- (b) the chief executive has not dealt with the application.

100A Other lapsing of application

- (1) This section applies if the application has been inactive for at least 6 months.
- (2) The chief executive may give the applicant a notice (a *show cause notice*) stating—
 - (a) the reasons the application is inactive; and
 - (b) that the chief executive intends to give the applicant notice that the application has lapsed; and
 - (c) that the applicant may, within a stated period of at least 28 days, give the chief executive a written response about why the application should not lapse.
- (3) After considering any response given by the applicant within the period stated in the show cause notice, the chief executive may give the applicant notice that the application has lapsed.
- (4) The application lapses when the chief executive gives the applicant a notice under subsection (3).
- (5) If the chief executive gives the applicant a notice under subsection (3), the chief executive must also give the applicant an information notice for the decision.
- (6) For subsection (1), the application is *inactive* if the chief executive is not dealing with the application and the applicant has not complied with—

-
- (a) a requirement under section 112 to pay a prescribed fee or part of a prescribed fee for an assessment of the applicant; or
 - (b) a notice under section 114 by the due day for the notice.

21 Amendment of s 101 (Who is assessed)

- (1) Section 101(1)(a), ‘; or’—

omit, insert—

and the person—

- (i) for a person selected for assessment under section 88 from the expression of interest register—is eligible to have the person’s name remain in the expression of interest register under section 76; or
- (ii) for a person selected for assessment under section 89—complies with section 89(8)(b)(ii) to (v); or

- (2) Section 101—

insert—

- (4) For subsection (1)(a)(i), a person does not become ineligible to have the person’s name remain in the expression of interest register under section 76 on the ground of being pregnant unless the person is at least 14 weeks pregnant.

22 Amendment of s 112 (Fees)

Section 112(3)(b)—

omit, insert—

- (b) the consequences of non-payment under—
 - (i) this section; and

[s 23]

- (ii) if the person's name is in the expression of interest register—section 80(1)(b); and
- (iii) if the person has made an application under part 5—section 100A.

23 Amendment of s 114 (Chief executive may require information)

Section 114(6)(b)—

insert—

Note—

See section 100A for when the application may lapse.

24 Amendment of s 115 (Obligation to notify chief executive of changed or new information relevant to eligibility or suitability)

Section 115(1)(c), after 'person's'—

insert—

eligibility to be assessed under this part or

25 Amendment of s 129 (Infertility)

Section 129—

insert—

(2) In this section—

infertility, of a person, means—

- (a) an inability, for a reason beyond the person's control, to conceive; or
- (b) a genetically transmitted disorder giving rise to a significant risk that, if the person was a biological parent of a child, the child would not survive or the child's health would be seriously impaired; or

- (c) a condition giving rise to a significant risk that, if the person fell pregnant, the child would not be carried until the child could be delivered alive; or
- (d) a condition giving rise to a significant risk that, if the person fell pregnant, the person would not survive or the person's health would be seriously impaired.

26 Amendment of s 138 (Preparation of report)

- (1) Section 138(5)—
renumber as section 138(6).
- (2) Section 138—
insert—
 - (5) The report remains current for 1 year after the day it is given to the person.

27 Amendment of s 146 (Other grounds for removal)

- (1) Section 146(1)(a), after 'assessment'—
insert—
under section 88
- (2) Section 146(1)(a), 'his or her'—
omit, insert—
the person's
- (3) Section 146(1)(b)—
omit, insert—
 - (b) for a person selected for assessment under section 89—
 - (i) the person is not a person mentioned in section 89(8)(b)(ii) to (v); or

[s 28]

- (ii) the person was selected for assessment jointly with the person's spouse and the spouse stops being the person's spouse; or
 - (iii) the person has a spouse but did not have a spouse when the person was selected for assessment.
- (4) Section 146—
insert—
 - (1A) Subsection (1) does not apply to a person in whose favour an interim order has been made while the interim order is in force.
- (5) Section 146(7), 'woman'—
omit, insert—
 - person
- (6) Section 146(7), 'her'—
omit, insert—
 - the person's
- (7) Section 146(7), 'she'—
omit, insert—
 - the person
- (8) Section 146(1A) to (7)—
renumber as section 146(2) to (8).

28 Amendment of s 153 (Chief executive must select prospective adoptive parents)

Section 153(2) and note—
omit.

29 Amendment of s 159 (Eligibility)

Section 159(2) and (3)—

omit, insert—

- (2) For subsection (1), a person selected for assessment under section 88 from the expression of interest register is still eligible if the person is eligible to have the person's name remain in the expression of interest register under section 76.
- (3) Also, for subsection (1), a person selected for assessment under section 89 is still eligible if—
 - (a) the person is still a person mentioned in section 89(8)(b)(ii) to (v); and
 - (b) for a person selected for assessment jointly with the person's spouse—the spouse is still the person's spouse; and
 - (c) for a person who did not have a spouse when the person was selected for assessment—the person does not have a spouse.
- (4) For subsection (2), a person does not become ineligible to have the person's name remain in the expression of interest register under section 76 on the ground of being pregnant unless the person is at least 14 weeks pregnant.

30 Amendment of s 165 (What is an adoption plan)

- (1) Section 165(2)(a) and (b), before 'adoption'—

insert—

proposed adoption or

- (2) Section 165(2)(b), before 'adoptive'—

insert—

prospective adoptive parents' or

[s 31]

- (3) Section 165(2)(c) and (d), before ‘adoptive’—
insert—
prospective adoptive parents or

31 Amendment of s 167 (Purpose)

Section 167, ‘the adoption’—
omit, insert—
the proposed adoption or adoption

32 Amendment of s 168 (Nature of plan and limitations on operation)

Section 168(1)(b) and (c), before ‘adoptive parents’—
insert—
prospective adoptive parents or

33 Insertion of new s 169A

Part 8, division 2—
insert—

169A In-person contact between child and birth family while interim order is in force

- (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, while an interim order is in force, 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 while the interim order is in force.

34 Amendment of s 170 (In-person contact between child and birth family)

Section 170, heading, after ‘family’—

insert—

after adoption

35 Amendment of s 173 (Adoption plans otherwise not compulsory)

Section 173, ‘sections 170’—

omit, insert—

sections 169A

36 Amendment of s 183 (Requirements for making interim order)

(1) Section 183(1)(d)—

insert—

(v) is not pregnant;

(2) Section 183(1)(e)—

omit, insert—

(e) any adoption plan required under section 169A has been agreed;

(3) Section 183(1)(f), ‘part 8, division 2’—

omit, insert—

sections 170 to 172

37 Amendment of s 188 (Application for final adoption order in favour of approved carers)

Section 188, after ‘carers’—

insert—

or long-term guardians

[s 38]

38 Amendment of s 189 (Requirements for making final adoption order)

Section 189(1)(d), ‘part 8, division 2’—

omit, insert—

sections 170 to 172

39 Amendment of s 196 (Requirements for making interim order)

(1) Section 196(g)—

insert—

(v) is not pregnant.

(2) Section 196(h)—

omit.

40 Amendment of s 203 (Meaning of *suitability report*)

Section 203, definition *suitability report*, after ‘section 138(2)’—

insert—

that is current under section 138(5)

41 Amendment of s 204 (Application by step-parent)

Section 204—

insert—

(4) The application must be made within 1 year after the day the suitability report was given to the step-parent.

42 Amendment of s 208 (Requirements for making final adoption order)

(1) Section 208(c), ‘his or her’—

omit, insert—

the step-parent's

- (2) Section 208(c), at the end, 'and'—

omit.

- (3) Section 208(f)—

insert—

Example for paragraph (f)—

a parent of the child has died or can not be located after making all reasonable enquiries

43 Replacement of s 215 (Child's name)

Section 215—

omit, insert—

215 Child's name

- (1) A final adoption order for a child—
- (a) must include an order that the child keep the child's existing first given name as the child's first given name; and
 - (b) may include an order that the child keep the child's existing surname or have the same surname as an adoptive parent; and
 - (c) in relation to the child's other given names—may include an order that the child—
 - (i) keep an existing given name; or
 - (ii) have another given name agreed by the child's adoptive parents as well as an existing given name; or
 - (iii) have another given name agreed by the child's adoptive parents instead of an existing given name.

[s 44]

- (2) Despite subsection (1)(a), a final adoption order may include an order that the child have another first given name agreed by the child's adoptive parents instead of the child's existing first given name if the court is satisfied there are exceptional circumstances that warrant the making of the order.

Example of exceptional circumstances—

a child's existing first given name is harmful to their wellbeing because the name may be culturally inappropriate

- (3) In making an order under this section, the court must—
- (a) make the order that will best promote the child's wellbeing and best interests; and
 - (b) have regard to the child's right to preserve the child's identity; and
 - (c) consider whether the child is generally known by, or identifies with, any of the child's existing names.
- (4) This section does not prevent a change of the child's name under another law after the final adoption order is made.

44 Amendment of s 249 (Meaning of *relative*)

- (1) Section 249(1), definition *relative*—

omit, insert—

relative, of a person, means—

- (a) a spouse, parent, sibling, child, grandparent or grandchild of the person; and
- (b) for an Aboriginal person—includes a person who, under Aboriginal tradition, is regarded as a parent or child of the person; and

- (c) for a Torres Strait Islander—includes a person who, under Island custom, is regarded as a parent or child of the person.

Note—

In relation to a person who is a person's spouse, see also section 9A.

- (2) Section 249(2), 'his or her'—

omit, insert—

the adopted person's or birth parent's

- (3) Section 249(2), 'or child'—

omit, insert—

, child, grandparent or grandchild

45 Amendment of s 256 (Request by, or on behalf of, adopted child)

- (1) Section 256(4)(c)(iii)—

omit, insert—

(iii) the birth parent's last known name;

(iv) each address of the birth parent;

- (2) Section 256(4)(d)(iii)—

omit, insert—

(iii) if the person's last known name is different from the person's name immediately after the person's adoption—the person's last known name, but only with the person's written consent;

(iv) each address of the person, but only with the person's written consent.

- (3) Section 256(6)—

omit, insert—

[s 46]

- (6) If a person's consent is required under subsection (2) or (4) and either of the following applies, an adult relative of the person may give the consent—
- (a) the person has died;
 - (b) the chief executive can not locate the person after making all reasonable enquiries.
- (4) Section 256(7), 'subsection (2) or (4)(d)(iii)'—
omit, insert—
subsection (2) or (4)
- (5) Section 256—
insert—
- (8) A consent under subsection (1)(b) or (2) is not required if the chief executive considers, because of exceptional circumstances, the consent is not required.
Examples of exceptional circumstances—
- the person and all adult relatives of the person have died
 - an adult relative of the person unreasonably withholds consent
- (9) For subsection (8), in considering whether the consent of a birth parent is not required, the chief executive may decide that the consent of the birth parent is not required in relation to—
- (a) all the information under subsection (4) in relation to the birth parent; or
 - (b) all the information other than the birth parent's last known name or any address of the birth parent.

46 Insertion of new s 256A

After section 256—

insert—

256A Additional information about identity of person who may be biological father

- (1) This section applies to a request by the applicant under section 256 for pre-adoption information about the adopted child.
- (2) The chief executive must give the applicant any information held by the chief executive about the identity of a person who may be the adopted child's biological father but who is not considered a birth parent of the adopted child because of section 250.
- (3) If the chief executive gives information under subsection (2), the chief executive must also give the applicant a notice stating the identity of the adopted child's biological father is not confirmed and, if appropriate in the circumstances, the reasons why the information is not confirmed.

47 Amendment of s 257 (Request by birth parent)

- (1) Section 257(4)(a)(i), 'his or her'—
omit, insert—
the adopted child's
- (2) Section 257(4)(a)(ii)—
omit, insert—
 - (ii) the adopted child's last known name;
 - (iii) each address of the adopted child;
- (3) Section 257(5), 'and address'—
omit, insert—
or any address of the adopted child

[s 48]

48 Amendment of s 263 (Request by adopted person)

(1) Section 263(2)(c)(iii)—

omit, insert—

(iii) if the birth parent's last known name is different from the birth parent's name at the time of the adoption—the birth parent's last known name, but only with the birth parent's written consent;

(iv) each address of the birth parent, but only with the birth parent's written consent;

(2) Section 263(2)(d)(iii)—

omit, insert—

(iii) if the person's last known name is different from the person's name immediately after the person's adoption—the person's last known name, but only with the person's written consent;

(iv) each address of the person, but only with the person's written consent.

(3) Section 263(3)—

omit, insert—

(3) If a person's consent is required under subsection (2) and either of the following applies, an adult relative of the person may give the consent—

(a) the person has died;

(b) the chief executive can not locate the person after making all reasonable enquiries.

(4) Section 263(4), 'subsection (2)(c)(iii) or (d)(iii)'—

omit, insert—

subsection (2)

(5) Section 263—

insert—

- (5) A consent under subsection (2) is not required if the chief executive considers, because of exceptional circumstances, the consent is not required.

Examples of exceptional circumstances—

- the person and all adult relatives of the person have died
- an adult relative of the person unreasonably withholds consent

49 Insertion of new s 263A

After section 263—

insert—

263A Additional information about identity of person who may be biological father

- (1) This section applies to a request by the adopted person under section 263 for pre-adoption information about the person.
- (2) The chief executive must give the adopted person any information held by the chief executive about the identity of a person who may be the adopted person's biological father but who is not considered a birth parent of the adopted person because of section 250.
- (3) If the chief executive gives information under subsection (2), the chief executive must also give the adopted person a notice stating the identity of the adopted person's biological father is not confirmed and, if appropriate in the circumstances, the reasons why the information is not confirmed.

[s 50]

50 Amendment of s 264 (Request by adult relative in place of adopted person)

Section 264(1)—

omit, insert—

- (1) This section applies if—
 - (a) the adopted person has died or does not have capacity to ask for information; or
 - (b) the chief executive is satisfied the adopted person can not be located after all reasonable enquiries have been made.

51 Amendment of s 265 (Request by birth parent)

(1) Section 265(2)(a)(ii)—

omit, insert—

- (ii) if the person's last known name is different from the person's name immediately after the adoption—the person's last known name, but only with the person's written consent;
- (iii) each address of the person, but only with the person's written consent;

(2) Section 265(3), after 'died'—

insert—

or the chief executive can not locate the adopted person after making all reasonable enquiries

(3) Section 265(3) and (4), 'subsection (2)(a)(ii)'—

omit, insert—

subsection (2)

(4) Section 265—

insert—

(5) A consent under subsection (2) is not required if

the chief executive considers, because of exceptional circumstances, the consent is not required.

Examples of exceptional circumstances—

- the adopted person and all adult relatives of the adopted person have died
- an adult relative of the adopted person unreasonably withholds consent

52 Amendment of s 266 (Request by adult relative in place of birth parent)

Section 266(1)—

omit, insert—

- (1) This section applies if—
 - (a) a birth parent of an adopted person has died or does not have capacity to ask for information; or
 - (b) the chief executive is satisfied the birth parent of an adopted person can not be located after all reasonable enquiries have been made.

53 Amendment of s 267 (Request by pre-adoption sibling)

(1) Section 267(3)—

omit.

(2) Section 267(4), ‘subsections (2) and (3)’—

omit, insert—

subsection (2)

(3) Section 267(4)(b), ‘and address’—

omit.

(4) Section 267(4)(c)—

[s 54]

renumber as section 267(4)(d).

(5) Section 267(4)—

insert—

(c) each address of the adopted person;

(6) Section 267(5), ‘subsection (4)’—

omit, insert—

subsection (3)

(7) Section 267(5), ‘and address’—

omit, insert—

or any address of the adopted person

(8) Section 267(4) to (7)—

renumber as section 267(3) to (6).

54 Omission of s 270 (Contact statement obligations for post-June 1991 adoptions)

Section 270—

omit.

55 Amendment of s 271 (Contact statement obligations for pre-June 1991 adoptions)

(1) Section 271, heading, ‘for pre-June 1991 adoptions’—

omit.

(2) Section 271(1)(c)—

omit.

(3) Section 271(3), from ‘applicant unless’—

omit, insert—

applicant unless a qualified officer speaks with the applicant, in person or by telephone, to—

- (a) advise of the second person's wish not to be contacted; and
- (b) pass on—
 - (i) 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
 - (ii) if the chief executive is not aware of the explanation—the reasons that are typically given by persons who do not wish to be contacted.

56 Omission of s 272 (Offence about contact for pre-June 1991 adoptions)

Section 272—

omit.

57 Amendment of s 278 (What is the mailbox service)

Section 278(1), 'an adoption'—

omit, insert—

a proposed adoption or adoption

58 Amendment of s 279 (Other definitions for div 6)

- (1) Section 279, definition *identifying information*, 'an adoption'—

omit, insert—

a proposed adoption or adoption

- (2) Section 279, definition *identifying information*, after 'party to the'—

insert—

[s 59]

proposed adoption or

59 Amendment of s 280 (Who is eligible to take part)

(1) Section 280, before subsection (1)—

insert—

(1AA) A party to the proposed adoption of a child may take part in the mailbox service while an interim order for the child is in force.

(1AB) However, the child may take part only with the written consent of the chief executive and—

(a) if an adoption plan is required under section 169A—the parties to the adoption plan; or

(b) otherwise—the parties to the proposed adoption.

(2) Section 280(2), ‘he or she’—

omit, insert—

the adopted person

(3) Section 280(3), from ‘if the birth parent’—

omit, insert—

if—

(a) the birth parent gives consent, does not have capacity to give consent or has died; or

(b) the chief executive can not locate the birth parent after making all reasonable enquiries.

(4) Section 280(1AA) to (4)—

renumber as section 280(1) to (6).

60 Replacement of s 282 (Exchanging identifying information)

Section 282—

omit, insert—

282 Exchanging identifying information

- (1) A participant may exchange identifying information with another participant while an interim order is in force only if—
 - (a) an adoption plan required under section 169A has been agreed; and
 - (b) the chief executive has consented to each participant exchanging identifying information; and
 - (c) each participant has given a notice of intention stating that the participant wishes to exchange identifying information while the interim order is in force.
- (2) A participant may exchange identifying information with another participant after a final adoption order is made only if—
 - (a) either—
 - (i) the chief executive has given identifying information to each participant on an application under division 2 or 3; or
 - (ii) the participants are parties to an intercountry adoption or their participation relates to an intercountry adoption; and
 - (b) each participant has given a notice of intention stating that the participant wishes to exchange identifying information after the final adoption order is made.
- (3) However, despite subsection (2)(a)(i), if the participants exchanged identifying information under subsection (1), the participants may exchange the same type of identifying information after the final adoption order is made

[s 61]

if each participant has given a notice mentioned in subsection (2)(b).

- (4) For an adult relative of a birth parent who is a participant under section 280(5), subsection (2)(a) applies as if the birth parent were the participant instead of the adult relative.
- (5) For subsection (1)(b), the chief executive may consent to a participant exchanging identifying information while an interim order is in force for a child if the chief executive is satisfied that exchanging identifying information is not likely to be contrary to the child's wellbeing and best interests.

61 Amendment of s 287 (Photographs of persons more than 2 years old)

Section 287(4)(b) and (5), before 'adoption'—

insert—

proposed adoption or

62 Amendment of s 319 (Right of review against particular decisions)

- (1) Section 319(d) to (f)—

renumber as section 319(e) to (g).

- (2) Section 319—

insert—

- (d) a decision under section 100A to give notice that an application made under part 5 has lapsed;

63 Replacement of s 327 (Review of Act)

Section 327—

omit, insert—

327 Further review of Act

- (1) The Minister must ensure the operation of this Act is reviewed as soon as practicable after the day that is 5 years after the day the *Adoption and Other Legislation Amendment Act 2016* commences.
- (2) The review must include a review of the effect of this Act on parties to adoptions and their families.
- (3) The Minister must table in the Legislative Assembly a report on the outcome of the review.

64 Amendment of pt 16, div 2, hdg (Savings and transitional)

Part 16, division 2, heading, after ‘transitional’—

insert—

provisions for Act No. 29 of 2009

65 Insertion of new pt 16, div 3

Part 16—

insert—

**Division 3 Transitional provisions for
Adoption and Other
Legislation Amendment
Act 2016**

347 Definition for division

In this division—

pre-amended Act means this Act as in force immediately before the commencement.

348 Effect of s 61A on chief executive's guardianship

Section 61A applies to the chief executive's guardianship of a child under section 57 whether or not the child died before the commencement.

349 Expression of interest not decided before commencement

- (1) This section applies if, before the commencement—
 - (a) a person made an expression of interest; and
 - (b) the chief executive had not decided whether the person's name may be entered in the expression of interest register.
- (2) Section 76 applies in relation to the person's eligibility to have the person's name entered in the expression of interest register.

350 Right to review and existing reviews of particular decisions under ss 78, 80 and 146

- (1) This section applies if, before the commencement—
 - (a) the chief executive made a decision under section 78, 80(1)(a) or 146(1) in relation to a person; and
 - (b) the time for applying for a review of the decision had not ended.
- (2) This section also applies if, before the commencement—
 - (a) a person applied to QCAT for a review of a decision made under section 78, 80(1)(a) or 146(1); and
 - (b) the application had not been finally dealt with.

- (3) The pre-amended Act applies in relation to the person's eligibility to have the person's name entered or remain in the expression of interest register or suitable adoptive parents register.

351 Eligibility for persons currently in expression of interest register

- (1) This section applies to a person if, immediately before the commencement, the person's name was entered in the expression of interest register.
- (2) Section 76 applies in relation to the person's eligibility to have the person's name remain in the expression of interest register.
- (3) Without limiting subsection (2), section 76 applies in relation to the person's eligibility even if the person is the subject of a show cause notice under section 80 to remove the person's name from the expression of interest register under section 80(1)(a).

352 Particular persons selected for assessment

- (1) This section applies if, before the commencement—
 - (a) a person was selected for assessment under part 4, division 5; and
 - (b) the chief executive had not decided whether the person was suitable to be an adoptive parent.
- (2) Section 101 as in force after the commencement applies to the person.

353 Eligibility for persons currently in suitable adoptive parents register

- (1) This section applies to a person if, immediately

[s 65]

before the commencement, the person's name was entered in the suitable adoptive parents register.

- (2) The amended Act applies in relation to the person's eligibility to have the person's name remain in the suitable adoptive parents register.
- (3) Without limiting subsection (2), the amended Act applies in relation to the person's eligibility even if the person is the subject of a show cause notice under section 146 to remove the person's name from the suitable adoptive parents register under section 146(1).
- (4) In this section—

amended Act means this Act as amended by the *Adoption and Other Legislation Amendment Act 2016*.

354 Time limit on particular reports under s 138 and applications under s 204

- (1) This section applies to a person if, before the commencement—
 - (a) a report prepared by the chief executive for the Childrens Court under section 138 was given to the person; and
 - (b) the person had not made an application to the Childrens Court under section 204 for a final adoption order.
- (2) The report remains current for 1 year after the commencement.
- (3) Despite section 204(4), the person may, within 1 year after the commencement, apply to the Childrens Court under section 204 for a final adoption order.

355 Child's name for final adoption order

- (1) This section applies if, before the commencement—
 - (a) an application had been made under part 9 for a final adoption order for a child; and
 - (b) a final adoption order for the child had not been made.
- (2) Section 215 as in force after the commencement applies in relation to the final adoption order.

356 Request for information under pt 11

- (1) This section applies if, before the commencement—
 - (a) a person asked the chief executive for information under part 11; and
 - (b) the chief executive had not finally dealt with the request.
- (2) Part 11 as in force after the commencement applies to the request.

357 Consent of adoptive parent not required for particular request by adopted child under s 256

- (1) This section applies if, before the commencement—
 - (a) an adopted child asked for pre-adoption information under section 256 with the consent of an adoptive parent; and
 - (b) the chief executive had finally dealt with the request.
- (2) On and from the commencement, if the adopted child asks for pre-adoption information under section 256, the consent of an adoptive parent is

not required.

358 Persons transitioned to suitable adoptive parents register under s 338

- (1) This section applies to a person whose name was listed in the suitable adoptive parents register under section 338.
- (2) For sections 146 and 159, the person is taken to have been selected for assessment under section 88 from the expression of interest register.

66 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *fertility treatment* and *infertility*—
omit.
- (2) Schedule 3—
insert—

long-term guardian, of a child, see the *Child Protection Act 1999*, schedule 3.

member, of a person's household, includes—

- (a) someone who lives in the person's home;
and
- (b) an adult who, because of the nature of the adult's contact with a child who may be adopted by the person and the context in which that contact is likely to happen, may pose an unacceptable risk of harming the child.

Part 3 Acts amended

67 Acts amended

Schedule 1 amends the Acts it mentions.

Schedule 1 Acts amended

section 67

Adoption Act 2009

- 1 Long title, from ‘and to make related’—**
omit.

- 2 Section 6(2)(c), ‘he or she’—**
omit, insert—
the party

- 3 Sections 6(2)(d) and 44(3), definition *prescribed information*, paragraph (j)(i), ‘him or her’—**
omit, insert—
the child

- 4 Sections 6(2)(e)(ii) and 238(3), ‘he or she’—**
omit, insert—
the child

- 5 Sections 24(4)(a) and 37(1), ‘he or she’—**
omit, insert—
the parent

- 6 Section 39(1)(e)(ii)(A), ‘his or her’—**
omit.

-
- 7 Sections 81(2)(a), 82(1)(c), 128 and 139(1)(c), ‘his or her’—**
omit, insert—
the person’s
- 8 Sections 81(7)(c) and 114(6)(c), ‘section 146(2)(b)’—**
omit, insert—
section 146(3)(b)
- 9 Section 84(3), ‘Australian couples’—**
omit, insert—
Australians
- 10 Sections 104, 260(3), definition *non-contact request* and 283(3), example 1, ‘he or she’—**
omit, insert—
the person
- 11 Sections 127(a) and (b) and 307K(2), ‘his or her’—**
omit, insert—
the child’s
- 12 Section 179(1), ‘his or her’—**
omit, insert—
the child’s own
- 13 Section 220(a), ‘he or she’—**
omit, insert—
the adopted person

- 14 Section 231(2), ‘him or her’—**
omit, insert—
the party
- 15 Section 231(2), ‘his or her’—**
omit, insert—
the party
- 16 Section 254(2), ‘his or her’—**
omit, insert—
the first person’s
- 17 Section 277(1), ‘his or her’—**
omit, insert—
the adopted person’s
- 18 Section 307A, note, after ‘may’—**
insert—
be
- 19 Schedule 3, first and second definition *registrar*—**
omit, insert—
registrar—
(a) for part 14A—see section 307B; or
(b) otherwise—means the registrar under the *Births, Deaths and Marriages Registration Act 2003*.

Commonwealth Powers (Family Law—Children) Act 1990

1 Schedule, entry for *Adoption Act 2009*, section 188—

omit, insert—

section 188 (Application for final adoption order
in favour of approved carers or long-term
guardians)

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