

Adoption Regulation 2020

Explanatory notes for SL 2020 No. 122

made under the

Adoption Act 2009

General Outline

Short title

Adoption Regulation 2020

Authorising law

Sections 71(3), 93(c), 112(1), 198(3), 298(3) and 328 of the *Adoption Act 2009*

Policy objectives and the reasons for them

Adoption is a legal process that establishes a permanent parent-child relationship between a child and their adoptive parent/s. The Department of Child Safety, Youth and Women (DCSYW) administers the *Adoption Act 2009* (the Act) to enable the adoption of children in Queensland, including the adoption of children from overseas by Queensland adults. Part 14A of the Act is administered by the Department of Justice and Attorney-General.

The *Adoption Regulation 2009* (the Regulation) was made under the Act on 11 December 2009 and commenced in February 2010. The Regulation includes provisions that relate to requirements for expressing an interest in being assessed as a prospective adoptive parent; various requirements throughout the Act for persons to provide proof of identity documents; and fees. Under Part 7 of the *Statutory Instruments Act 1992*, the Regulation is due to expire on 1 September 2020. Before a regulation is remade, a Department is required to undertake a sunset review.

The DCSYW has undertaken a sunset review of the Regulation. The outcome of the review was that there is an ongoing need for the Regulation, it is operating effectively, and there are no necessary amendments required at this time. The *Adoption Regulation 2020* (Remade Regulation) replicates the majority of provisions in the current regulation making only minor and consequential amendments to provide for updated drafting style and practice, clarification and simplification.

The delivery of high-quality adoption services attracts significant costs. Sections 71(3), 93(c), 112(1), 198(3) and 298(3) of the Act provide for the payment of fees at various stages of the

adoption process, including application, assessment and supervision and for the fees to be prescribed under a regulation. Adoption fees are prescribed in Schedule 2 of the the Regulation.

The *Queensland Treasury Principles for Fees and Charges* requires agencies to have processes in place to ensure fees maintain their value over time. The government indexation rate for fees and charges for 2020-21 is 1.8 per cent, to be applied from 1 July 2020.

The remade regulation also increases fees in Schedule 2 of the Regulation by applying the government indexation policy in the *Queensland Treasury Principles for Fees and Charges* to adoption fees. Adoption fees have increased annually since 2009.

Achievement of policy objectives

The remade Regulation replicates the provisions in the existing regulation. This is appropriate as it will continue to provide requirements for expressing an interest in being assessed as a prospective adoptive parent; various requirements throughout the Act for persons to provide proof of identity documents; and fees necessary for efficient and effective implementation of the Act.

The remade Regulation also maintains the value of prescribed fees in the Regulation by increasing the current fees by 1.8 per cent. This achieves the policy objective to maintain their value over time, by applying the government index rate in compliance with the *Queensland Treasury Principles for Fees and Charges*.

Consistency with policy objectives of authorising law

The remade Regulation is consistent with the objective of the Act, that is, to provide for the adoption of children in a way that supports efficient and accountable practice in the delivery of adoption services in Queensland.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

DCSYW considered a number of alternative options during the sunset review of the Regulation, including maintaining the status quo by allowing the Regulation to expire and remaking the regulation without significant amendments and without increases to the quantum of fees for annual indexation.

There are no alternative ways of achieving the policy objectives other than replicating the Regulation in the remade Regulation and by an amendment to the quantum of fees to reflect the annual indexation rate.

Benefits and costs of implementation

Remaking the regulation and increasing the quantum of fees will allow for the continued efficient and effective implementation of the Act.

Adoption fees are discretionary expenses and are not part of the cost of living for the majority of Queensland residents. The Queensland Government subsidises the costs of the suitable adoptive parent assessment process. Despite the small number of children requiring an adoptive placement, there is high demand for assessments.

The annual indexation increase to adoption fees assists DCSYW to continue to meet the costs of providing adoption services, while maintaining a proportionate and sustainable fee structure. The Queensland Government continues to meet the majority of the costs of delivering adoption services.

There are no additional implementation costs to government to continue these regulatory provisions or in adjusting the adoption fees.

DCSYW implements the adoption fees for intercountry adoptions in two instalments in order to stagger the payment of fees and align the timing of fees with the events linked to costs incurred. There are no fees for parties to make an expression of interest, to participate in a reassessment (if one is required), or for attending information or education sessions.

Consistency with fundamental legislative principles

The remade Regulation is consistent with fundamental legislative principles.

Consultation

In accordance with the *Queensland Government Guide to Better Regulation* (the guidelines), the Office of Best Practice Regulation was consulted in relation to the sunset review and remake of the Regulation. OBPR acknowledged that the department has satisfactorily met the objectives for a sunset review as set out in the guidelines and no further regulatory impact analysis of the Regulation is required prior to its remake. The quantum and category of fees was discussed generally as part of the sunset review. However, in relation to the fees adjustment specifically, DCSYW applied a self-assessed exclusion from further regulatory impact analysis on the basis that the Amendment Regulation applies a standard annual fee variation in line with or below a government-endorsed indexation factor – category (h).

No consultation was undertaken with non-government agencies. This was on the basis that the remade Regulation does not include any significant amendments that will change the day-to-day application and implementation of the regulation or the Act in a way that significantly impacts key stakeholders or the general public. Further, amendment of the fees is a standard annual fee variation in line with the government-endorsed indexation rate.