

outside the Commonwealth and the Territories shall, in the absence of proof to the contrary, be sufficient evidence—

- (a) that the adoption was made in that country and is effective according to the law of that country; and
- (b) that the adoption has not been rescinded.

(6) Notwithstanding the foregoing provisions of this section, a Court (including a Court dealing with an application under section 69) may refuse to recognize an adoption as being an adoption to which this section applies if it appears to the Court that the procedure followed, or the law applied, in connexion with the adoption involved a denial of natural justice or did not comply with the requirements of substantial justice.

(7) Where, in any proceedings before a Court (including proceedings under section 69), the question arises whether an adoption is one to which this section applies, it shall be presumed, unless the contrary appears from the evidence, that the adoption complies with the requirements of sub-section (2) and has not been rescinded.

(8) Except as provided in this section, the adoption of a person (whether before or after the commencement of this Act) in a country, other than New Zealand, outside the Commonwealth and the Territories does not have effect for the purposes of the laws of Victoria.

(9) Nothing in this section affects any right that was acquired by, or became vested in, a person before the commencement of the *Adoption of Children Act 1964*.

Supervision of certain adopted children.

68. (1) Subject to this section, where—

- (a) a child is adopted in a country, other than New Zealand, outside the Commonwealth and the Territories, whether or not the adoption is an adoption that has, under this Act, the same effect as an adoption order under this Act;
- (b) the adoption in relation to the child has been in force for a period not exceeding twelve months;
- (c) neither of the adoptive parents of the child was or, where there is only one adoptive parent, that parent was not, at the time of the making of the order of adoption with respect to the child a national or citizen of the country in which the order was made; and
- (d) the child is present in Victoria—

the Director-General may supervise the welfare and interests of the child for a period not exceeding six months commencing on the date of the arrival of the child in Victoria and any person authorized in writing by the Director-General for that purpose has a right of access to the child at all reasonable times during that period.

(2) Where a child whose welfare and interests may be supervised by the Director-General under sub-section (1) has, after being adopted but before arriving in Victoria, been resident in any other State or in a Territory or in New Zealand, the period during which the child is subject to the supervision of the Director-General is reduced proportionately to the period of such residence in that other State or Territory or in New Zealand.

(3) Notwithstanding sub-section (1), the Director-General may, in the discretion of the Director-General, exempt any child to whom the provisions of that sub-section would otherwise apply from the provisions of that sub-section.

(4) Where either or both of the adoptive parents of the child or, where there is only one adoptive parent, that parent, was not, before the child was adopted, approved by the Director-General or the principal officer of an approved agency as a person suitable to be an adoptive parent of a child under the law of a country, other than New Zealand, outside the Commonwealth and the Territories, the reference in sub-section (1) to a period not exceeding six months shall be read as a reference to a period not exceeding twelve months.

(5) Where the Director-General supervises the welfare and interests of a child under this section, the Director-General may require payment by the adoptive parents or adoptive parent of the child of a fee not exceeding the amount prescribed for the purposes of this section.

Declarations of validity of foreign adoptions.

No. 7147, s. 43.

69. (1) A person specified in sub-section (2) may apply to the Court for an order declaring that an adoption of a person was effected (whether before or after the commencement of this Act) under the law of a country, other than New Zealand, outside the Commonwealth and the Territories, and that the adoption is one to which section 67 applies, and the Court may hear and determine the application and, if it thinks fit, make an order accordingly.

(2) The persons who may make an application under sub-section (1) in relation to an adoption are the adopted child, the adoptive parent or either or both the adoptive parents, or a person tracing a relationship, by virtue of the adoption, through or to the adopted child.

(3) Where an application is made to a Court under this section, the Court shall direct that notice of the application be given to the Director-General and may do any or all of the following:

- (a) Direct that notice of the application be given to such other persons (who may include the Secretary of the Law Department) as the Court thinks fit;
- (b) Direct that a person be made a party to the application; or
- (c) Permit the Director-General or any other person having an interest in the matter to intervene in, and become a party to, the proceedings.

- (4) Where the Court makes an order upon the application—
- (a) it may include in the order such particulars in relation to the adoption, the adopted child and the adoptive parent or parents as the Court finds to be established; and
 - (b) it shall issue to the adoptive parent or adoptive parents a certificate stating the date on which the order was made, the name of the adoptive parent or adoptive parents, the name of the child and such other matters as the Court determines.

(5) For the purposes of the laws of Victoria, an order under this section binds the Crown in right of the State of Victoria, but, except as provided in sub-section (6), does not affect—

- (a) the rights of another person unless that person was—
 - (i) a party to the proceedings for the order or a person claiming through such a party; or
 - (ii) a person to whom notice of the application for the order was given or a person claiming through such a person; or
- (b) an earlier judgment, order or decree of a court of competent jurisdiction.

(6) In proceedings in a Court in which an order has been made under this section, being proceedings relating to the rights of a person other than a person referred to in sub-paragraph (i) or (ii) of paragraph (a) of sub-section (5), the production of a copy of the order, certified by the Prothonotary or the Registrar of the Court to be a true copy, shall be evidence that an adoption was effected in accordance with the particulars contained in the order and that the adoption is one to which section 67 applies.

PART V.—REGISTRATION OF ORDERS

Registration of orders.

70. (1) The prescribed officer of the Court shall cause a memorandum, in accordance with the prescribed form, of each adoption order to be sent to the Government Statist who shall register the adoption—

No. 7147, s. 57.

- (a) by endorsing on the memorandum, an official number and placing the memorandum in a Register of Adoptions kept by the Government Statist; and
- (b) by making an entry in the Adopted Children Register kept by the Government Statist of the prescribed particulars ascertained from the memorandum.

(2) Where an order for the adoption of a child to whom section 50 applies is made, the prescribed officer of the Court shall cause to be sent to the Government Statist a memorandum giving the name of the

Aboriginal agency (if any) concerned in the arrangements for the adoption and stating that the provisions of section 114 apply.

(3) The prescribed officer of the Court shall cause a copy of each order for the discharge of an adoption order to be sent to the Government Statist who shall, where the order is for the discharge of an adoption order that has been registered in the Register of Adoptions, register the order—

- (a) by placing it with the adoption order to which it relates in the Register of Adoptions kept by the Government Statist; and
- (b) by making a notation of the discharge in the entry in the Adopted Children Register kept by the Government Statist and, where the order relates to a person whose birth is registered in Victoria, in the entry in the Register of Births relating to the birth.

Sending of memoranda of orders to other States, &c.

No. 7147, s. 58.

71. Where the Court makes an adoption order or an order for the discharge of an adoption order and the Prothonotary or the Registrar of the County Court (as the case requires) has reason to believe that the birth of the child to which the order relates is registered in another State or in a Territory or in any country proclaimed by the Governor in Council for the purposes of section 67 (3), the Prothonotary or Registrar shall, as soon as practicable, cause a memorandum, in accordance with the prescribed form, of the adoption order or a copy of the order for the discharge of an adoption order, as the case may be, certified in writing by the Prothonotary or Registrar to be a true memorandum or copy, to be sent to such officer of that State, Territory or country having functions in relation to the registration of births as is prescribed.

Registration of orders received from other States, &c.

No. 7147, s. 59.

72. Where the Government Statist receives, in relation to a person whose birth is registered in Victoria, a memorandum or copy of an order for the adoption of the person made (whether or not by a court) under the law in force in another State or in a Territory or made in a country outside the Commonwealth and the Territories and recognized under Part IV. or of an order for the discharge of such an order, certified in writing to be a true memorandum or copy by a person authorized so to certify under the law of that State, Territory or country, the Government Statist shall—

- (a) in the case of an order for adoption, register the adoption—
 - (i) by endorsing on the memorandum or copy an official number and placing the memorandum or copy in the Register of Adoptions kept by the Government Statist; and

- (ii) by making an entry in the Adopted Children Register kept by the Government Statist of the prescribed particulars ascertained from the memorandum or copy; or
- (b) in the case of an order for the discharge of an order for adoption that has been registered in the Register of Adoptions, register the order—
 - (i) by placing it with the order for adoption to which it relates in the Register of Adoptions kept by the Government Statist; and
 - (ii) by making a notation of the discharge in the entry in the Adopted Children Register kept by the Government Statist to which it relates and in the entry in the Register of Births relating to the birth of the person.

Registration of certain foreign orders.

73. Where the Government Statist receives, in relation to a person whose birth is registered in Victoria, an order of the Court making a declaration under section 69 with respect to a foreign adoption and a memorandum or copy of the order or other instrument by which the adoption is effected, the Government Statist shall register the adoption—

- (a) by endorsing on the memorandum or copy an official number and placing the memorandum or copy in the Register of Adoptions kept by the Government Statist; and
- (b) by making an entry in the Adopted Children Register kept by the Government Statist of the prescribed particulars ascertained from the memorandum or copy.

Certain entries to be marked “adopted”.

74. (1) Upon registration under this Division of a memorandum or copy of an order for adoption relating to a person whose birth is registered in Victoria, the Government Statist shall mark with the word “adopted” the entry in the Register of Births relating to the birth.

(2) Upon the registration under this Division of a memorandum or copy of an order for adoption relating to a person who has previously been adopted in Victoria, the Government Statist shall mark with the word “adopted” the entry in the Adopted Children Register relating to that person.

(3) The Government Statist shall not, except in accordance with this Act or an order of the Court, open for inspection, or issue an extract from, or copy of, an entry in the Register of Births or in the Adopted Children Register marked with the word “adopted”.

Index to be kept by Government Statist.

75. (1) The Government Statist shall cause an index to be made to the Register of Adoptions and to the Adopted Children Register in such a manner as to make traceable the connexion between the relevant entries in the Adopted Children Register and the Register of Births relating to a person whose birth is registered in Victoria.

(2) Except as otherwise provided in this Act, the Government Statist shall not open for inspection or search the index referred to in sub-section (1).

(3) Nothing in sub-section (2) prevents the Government Statist inspecting or searching the index referred to in sub-section (1).

Register of Adoptions not open for search.

76. (1) Except as provided in sub-section (2), the Register of Adoptions shall not be open for inspection or search and a person shall not be furnished with an extract from, or copy of, a memorandum or order or copy of an order kept in that register.

(2) Upon application by the Director-General, the Government Statist shall issue, subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the *Registration of Births Deaths and Marriages Act 1959* in relation to the Register of Births, an extract from, or certified copy of, an entry in the Register of Adoptions relating to a person adopted under an adoption order made in Victoria.

(3) The Director-General shall not make an application under sub-section (2) except in respect of an adopted person from whom or in respect of whom he has received an application for information under Part VI.

Index of births.

77. (1) The Government Statist shall, without making a distinction between entries in the Register of Births and entries in the Adopted Children Register, make in the General Index of Births an entry of the necessary particulars of each entry made in the Adopted Children Register.

(2) The index referred to in sub-section (1) shall be open for search subject to the provisions of the *Registration of Births Deaths and Marriages Act 1959*.

Copies of entries in Adopted Children Register.

78. Upon application the Government Statist shall, subject to section 74 (3), issue, subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the *Registration of Births Deaths and Marriages Act 1959*, an extract from, or certified copy of, an entry in the Adopted Children Register.

Place of birth.

79. (1) A person who is—

(a) an adopted person; or

(b) an adoptive parent of an adopted person who has not attained the age of 18 years—

may make application to the Government Statist for the issue of a certificate stating the place of birth of the adopted person.

(2) Upon application by an adopted person under sub-section (1), the Government Statist shall free of charge but otherwise subject to the same terms, conditions and regulations as are applicable under the *Registration of Births Deaths and Marriages Act 1959*, issue the certificate to which the application relates or, where the Government Statist is not in possession of the information to which the application relates, issue a certificate to that effect.

(3) A certificate under this section stating the place of birth of an adopted person may be issued—

(a) as a separate certificate; or

(b) where the application for the certificate is accompanied by—

(i) a certified copy of any entry in the Adopted Children Register; or

(ii) an application under section 78 for a certified copy of an entry in the Adopted Children Register—

by endorsement on the certified copy of the entry in the Adopted Children Register.

Discharge of order.

80. (1) Where an order for adoption is discharged, being an order—

(a) relating to a person—

(i) whose birth is registered in Victoria; or

(ii) an entry relating to whose previous adoption is entered in the Adopted Children Register; and

(b) a memorandum or copy of which is registered under this Division—

the Government Statist shall—

- (c) delete the word “adopted” in the entry relating to the birth in the Register of Births or in the Adopted Children Register, as the case may be; and
- (d) where the order relates to the name of the person, mark the entry in the Register of Births or Adopted Children Register with particulars of the order.

(2) Where an order for adoption is discharged, being an order a memorandum or copy of which is registered under this Division, the Government Statist, notwithstanding the deletion of the word “adopted” from the entry in the Register of Births or the Adopted Children Register, shall not issue an extract from, or copy of, that entry if the order for the discharge provides to that effect.

Correction of errors.

81. The provisions of section 40 of the *Registration of Births Deaths and Marriages Act 1959* apply with respect to the Adopted Children Register.

PART VI.—ACCESS TO INFORMATION

Division 1—General

Interpretation.

82. In this Part, unless the contrary intention appears—

“**Adopted person**” means a person—

- (a) an order for whose adoption was made under this Act or any corresponding previous enactment; or
- (b) an order for whose adoption was made (whether before or after the commencement of this section) in a place outside the State but whose birth was registered in Victoria.

“**Agency**” means an approved agency or an organization approved as a private adoption agency under the *Adoption of Children Act 1964*.

“**Natural parent**” in relation to an adopted person means—

- (a) a person whose name is entered in the entry relating to the child in a register of births (whether in Victoria or in a place outside Victoria) as a parent of the person;
- (b) a man who is declared to be the father of the person under a declaration of paternity in force under section 10 of the *Status of Children Act 1974*, being a declaration a copy of which is filed under section 9 (3) of that Act in the office of the Government Statist;
- (c) a man against whom an order has been made under section 10 or 12 of the *Maintenance Act 1965* in respect of the child, being an order a copy of which is filed in the office of the

Government Statist under section 9 (3) of the *Status of Children Act 1974*;

- (d) a man who is named in an instrument filed in the office of the Government Statist under section 9 (1) of the *Status of Children Act 1974* that acknowledges that he is the father of the person; or
- (e) unless there is evidence that the man is not the father of the person—a man who has lodged with the Director-General evidence that—
 - (i) an order has been made outside Victoria that, under section 8 (5) of the *Status of Children Act 1974* is *prima facie* evidence that he is the father of the person;
 - (ii) he was at any time, liable under an order of the Family Court of Australia for the maintenance of the person; or
 - (iii) he has at any time been granted under an order of the Family Court of Australia, access to or custody or guardianship of the person—

and, in relation to an application under section 95, 96 or 103, includes a man who satisfies the Director-General that there is *prima facie* evidence that the man is the father of the person.

“Relevant authority” in relation to an application for information means—

- (a) the Director-General;
- (b) where the application relates to information contained in records in the possession or under the control of an approved agency—that approved agency; or
- (c) where the Director-General declares in writing that an approved agency is a relevant authority for the purposes of this Part for the time being or in relation to particular applications for information—an approved agency to which the declaration relates.

Restriction on access to reports and records.

83. (1) Except as provided in this Act—

- (a) records of or in the possession or under the control of the Director-General or an agency relating to an adoption negotiated or arranged by the Director-General or an agency or any part of such records; and
- (b) a report to a Court under section 15 or any corresponding previous enactment and the records of a Court of or relating to proceedings (other than an order or decision of a Court) under this Act or any corresponding previous enactment—

shall not be made available to, or be open for inspection by, any person.