

(2) Where, by reason of sub-section (1), a report to a Court is not to be made available or open for inspection, a copy of the report or of any part of it shall not be made available or be open for inspection notwithstanding that such a copy or part may be contained in records from which information may be available under this Part.

(3) Nothing in this section prevents the Director-General or an approved agency making available to a person who has made application to adopt a child any information referred to in paragraph (a) or (b) of section 84 (2) that relates to the application by that person.

Access to certain documents under the *Freedom of Information Act* 1982.

84. (1) An approved agency that is supported directly or indirectly by government funds or other assistance or over which the State is in a position to exercise control shall be deemed to be a prescribed authority for the purposes of the application of the *Freedom of Information Act* 1982 in accordance with this section.

(2) Subject to this section and to the *Freedom of Information Act* 1982, a person who, whether before or after the commencement of this Act, has made application to adopt a child to the Director-General, to an approved agency or to a private adoption agency within the meaning of the *Adoption of Children Act* 1964 that, under this Act, is an approved agency, has a legally enforceable right under the *Freedom of Information Act* 1982 to obtain access in accordance with that Act to a document of the Department of Community Welfare Services or of the approved agency that—

- (a) is the application made by that person to the Director-General, approved agency or private adoption agency; or
- (b) contains matter in the nature of a report, opinion, advice or recommendation prepared by the Director-General or the principal officer of the agency or a record of consultation or deliberation that has taken place between any such persons in the course of, or for the purposes of, assessing the application.

(3) A document to which sub-section (2) applies, is not, by reason only that it contains matter to which paragraph (b) of that sub-section applies, an exempt document for the purposes of the *Freedom of Information Act* 1982.

Records of adoptions.

85. (1) The Director-General shall maintain and preserve records in respect of each adoption negotiated or arranged by or on behalf of the Director-General.

- (2) An approved agency shall—
- (a) maintain records of each adoption negotiated or arranged by it; and
 - (b) in respect of each adoption negotiated and arranged by it, give to the Director-General details as prescribed of the parties to the application for the adoption order after the adoption order is made.

(3) An agency, being an organization approved as a private adoption agency under the *Adoption of Children Act 1964* or any organization, body or person that arranged adoptions under the *Adoption of Children Act 1958* or any corresponding previous enactment may give to the Director-General records held by it of any adoption negotiated or arranged by it and in respect of which an adoption order was made before the commencement of this section.

(4) The Director-General shall preserve records given to the Director-General under sub-section (2) or (3).

(5) The regulations may prescribe the manner in which records shall be preserved for the purposes of this section.

(6) A person shall not destroy, remove or conceal records referred to in this section.

Penalty applying to this sub-section: 20 penalty units.

Director-General may obtain information from a Court.

86. (1) For the purposes of this Part, the Director-General may apply to a Court for such information from its records relating to proceedings as a result of which an adoption order was made by that Court as will enable the Director-General to seek or obtain information that, under this Part, the Director-General is permitted to give to a person who makes an application under this Part.

(2) The Court shall give to the Director-General information in its possession or under its control to which an application under sub-section (1) applies.

Counselling services.

87. (1) A relevant authority shall not supply a document or information to an applicant under this Part unless the applicant has attended an interview with an approved counsellor.

(2) Where a relevant authority receives an application under this Part, the relevant authority shall inform the applicant in writing of the place or places at which counselling services are available and that information cannot be supplied under this Part unless the applicant has attended an interview with an approved counsellor.

Protection of privacy.

88. A person shall not, under this Part, give to an applicant under this Part, and an applicant under this Part is not entitled to obtain, information relating to the personal affairs of a person (whether living or dead) other than the applicant or from which another person may be identified, whether directly or indirectly, except subject to and in accordance with this Part.

Disclosure of medical information.

89. Where, under this Part, information of a medical or psychiatric nature concerning an applicant under this Part or a natural parent or a relative or child of an applicant may be disclosed, a relevant authority may, if the relevant authority considers that the disclosure of the information to the applicant might be prejudicial to the physical or mental health or well-being of the applicant, determine not to disclose the information to the applicant personally but may disclose the information (without identifying a person, other than the applicant, to whom it relates) to a legally qualified medical practitioner nominated by the applicant and approved by the relevant authority.

Director-General to provide information.

90. Where a relevant authority receives an application for information under this Part—

- (a) the relevant authority shall, subject to and in accordance with this Part—
 - (i) insofar as the information to which the application relates is contained in records in the possession or under the control of the relevant authority—give the information to the applicant so far as, under this Part, the information may be given to the applicant; and
 - (ii) where the relevant authority is the Director-General and the information to which the application relates is not contained in records in the possession or under the control of the relevant authority—request an agency, other body or a person from which or from whom the information may be available—
 - (A) to give the information to the Director-General; or
 - (B) where the applicant agrees and the request so states, give the information to the applicant, so far as, under this Part, the information may be given to the applicant—

and, where the information is given to the Director-General, give the information to the applicant so far as, under this Part, the information may be given to the applicant; and

- (b) insofar as the information to which the application relates is not contained in any such records, the relevant authority shall—
 - (i) make such reasonable enquiries as in all the circumstances of the case ought reasonably to be made for the purposes of obtaining the information; and
 - (ii) upon obtaining the information, give it to the applicant so far as, under this Part, the information may be given to the applicant.

Division 2—Persons entitled to Birth Certificates or Information.

Interpretation.

91. In this Division, a reference to information about an adopted person is a reference to information about the adopted person or the natural parents or the relatives of the adopted person which the relevant authority is satisfied—

- (a) is reasonably likely to be true; and
- (b) does not unreasonably disclose information relating to the personal affairs of a natural parent, a relative or any other person—

but, unless the context otherwise requires, does not include a reference to information from which a natural parent or a relative of an adopted person may be identified.

Access to birth certificates of adopted persons.

92. (1) Where an order under this Act for the adoption of a child whose birth was registered in Victoria is made in favour of—

- (a) a spouse of a natural parent of the child;
- (b) a person who, or whose spouse, is a relative of the child; or
- (c) two persons who are relatives, or one of whom is a relative, of the child—

a person in whose favour such an order is made, the adopted person (whether before or after attaining the age of 18 years) or, where the order is made in favour of the spouse of a natural parent, the natural parent, may make application to the Government Statist for the issue of an extract from, or certified copy of, the entry in the Register of Births relating to the adopted person.

(2) An adopted person who has attained the age of eighteen years may make application in the prescribed form to the Director-General—

- (a) where the birth of the adopted person was registered in Victoria—for an extract from, or certified copy of, the entry in the Register of Births relating to the adopted person; or
- (b) where the birth of the adopted person was not registered in Victoria—for a copy of an extract from, or certified copy of,

the original birth certificate relating to the adopted person contained in records relating to the adoption of the person that are in the possession or under the control of the Director-General, an agency, another body or person or of the Court.

(3) Where an order under this Act for the adoption of a child whose birth was not registered in Victoria is made in favour of—

- (a) a spouse of a natural parent of the child;
- (b) a person who, or whose spouse is a relative of the child; or
- (c) two persons who are relatives, or one of whom is a relative, of the child—

a person in whose favour such an order is made, the adopted person (whether before or after attaining the age of 18 years) or, where the order is made in favour of the spouse of a natural parent, the natural parent may make application in the prescribed form to the Director-General for a copy of an extract from, or certified copy of, the birth certificate relating to the adopted person contained in records relating to the adoption of the person that are in the possession or under the control of the Director-General, an agency, another body or person or of the Court.

(4) Where the Director-General receives an application under paragraph (a) of sub-section (2) together with the prescribed fee, the Director-General shall make application to the Government Statist for the issue, whether to the Director-General or to the applicant, of an extract from, or certified copy of, the entry in the Register of Births relating to the applicant.

(5) Upon application under sub-section (1) or (4), the Government Statist shall, subject to the same terms, conditions and regulations as to payment of fees or otherwise as are applicable under the *Registration of Births Deaths and Marriages Act 1959*, issue, in accordance with the application, an extract from, or certified copy of, the entry in the Register of Births relating to the person named in the application.

(6) The Government Statist shall not issue an extract from an entry in the Register of Births under sub-section (5) unless the extract is marked with the word “adopted”.

(7) Where the Director-General receives an application under paragraph (b) of sub-section (2) or under sub-section (3), the Director-General shall—

- (a) where the copy to which the application relates is in the possession or under the control of the Director-General, give a copy to the applicant; or
- (b) where the copy to which the application relates is in the possession or under the control of an agency, other body or person or the Court, request that agency, body, person or

Court to give a copy to the Director-General or, where the request so states, to the applicant.

Adopted person's right to information at age eighteen.

93. An adopted person who has attained the age of eighteen years may make application to a relevant authority for information about the adopted person that is contained in records relating to the adoption of the person that are in the possession or under control of the relevant authority or, where the application is made to the Director-General, that are in the possession of the Director-General, an agency, another body or another person whether or not a natural parent or a relative of an adopted person may be identified from that information.

Adopted person's right to information under age eighteen.

94. (1) An adopted person who has not attained the age of eighteen years may make application to a relevant authority for—

(a) information about the adopted person (other than information from which the identity of either of the natural parents of the adopted person may be ascertained, whether directly or indirectly) from the records of the relevant authority, or, where the application is made to the Director-General, from the records of the Director-General, an agency, another body or a person; and

(b) subject to sub-section (2), information from the records of the relevant authority, or, where the application is made to the Director-General, from the records of the Director-General, an agency, another body or a person, being information about the adopted person from which the identity of either of the natural parents of the adopted person may be ascertained.

(2) An application for information referred to in paragraph (a) or (b) of sub-section (1) shall be accompanied by the agreement in writing, or evidence of the death, of each adoptive parent of the adopted person.

(3) There shall not be given to an applicant under this section any information to which paragraph (b) of sub-section (1) applies from which the identity of a natural parent of the applicant may be ascertained unless the relevant authority has obtained the agreement in writing, or evidence of the death of, that natural parent.

Natural parent's right to information about adopted person under age eighteen.

95. (1) A natural parent of an adopted person who has not attained the age of eighteen years may make application to a relevant authority for—

(a) information about the adopted person (other than information from which whether directly or indirectly, the

- adoptive parents of the adopted person may be identified or the whereabouts of the adopted person ascertained); or
- (b) information about the adopted person from which the adoptive parents of the person may be identified or the whereabouts of the adopted person ascertained.
- (2) There shall not be given to an applicant under this section—
- (a) any information to which paragraph (b) of sub-section (1) applies unless the relevant authority—
- (i) has considered any wishes expressed by the adopted person; and
 - (ii) has obtained the agreement in writing, which may be given subject to conditions, or evidence of the death of, each adoptive parent of the adopted person; or
- (b) any part of that information where the relevant authority determines that, in order to give effect to any wishes of the adopted person or conditions imposed by an adoptive parent, that part of the information ought not to be disclosed.

Natural parent's right to information about adult adopted person.

96. (1) A natural parent of an adopted person who has attained the age of eighteen years may make application to a relevant authority for—

- (a) information about the adopted person (other than information from which whether directly or indirectly the adoptive parents of the person may be identified or the whereabouts of the adopted person ascertained); or
 - (b) information about the adopted person from which the adoptive parents of the person may be identified or the whereabouts of the adopted person ascertained.
- (2) There shall not be given to an applicant under sub-section (1)—
- (a) any information to which paragraph (b) of that sub-section applies unless the relevant authority has obtained the agreement in writing (which may be given subject to conditions), or evidence of the death, of the adopted person; or
 - (b) any part of the information to which paragraph (b) of sub-section (1) applies where the relevant authority determines that, in order to give effect to any conditions imposed by the adopted person, that part of the information ought not to be disclosed.

Natural relative's right to information.

97. (1) In this section, “**natural relative**” in relation to an adopted person means a grandparent, brother, sister, uncle or aunt of the adopted person where the relationship is of the whole blood or half-blood.

(2) A natural relative of an adopted person may make application to a relevant authority for—

- (a) information about the adopted person (other than information from which (whether directly or indirectly) the adoptive parents of the adopted person may be identified or the whereabouts of the adopted person ascertained); or
- (b) information about the adopted person from which the adoptive parents of the adopted person may be identified or the whereabouts of the adopted person ascertained.

(3) There shall not be given to an applicant under sub-section (2)—

(a) any information to which paragraph (b) of that sub-section applies unless the relevant authority—

- (i) is satisfied that circumstances exist which make it desirable so to do;
- (ii) where the adopted person has attained the age of eighteen years—has obtained the agreement in writing, which may be given subject to conditions, or evidence of the death; of the adopted person; and
- (iii) where the adopted person has not attained the age of eighteen years—
 - (A) has considered any wishes expressed by the adopted person, or where the adopted person has died, has obtained evidence of the death of the adopted person; and
 - (B) has obtained the agreement in writing, which may be given subject to conditions, or evidence of the death of, each adoptive parent of the adopted person; or

(b) any part of the information to which paragraph (b) of that sub-section applies where the relevant authority determines that, in order to give effect to any wishes of the adopted person or conditions imposed by the adopted person or of an adoptive parent, that part of the information ought not to be disclosed.

Adoptive parent's right to information.

98. (1) An adoptive parent of an adopted person may make application to a relevant authority for—

- (a) information about the adopted person (other than information from which a natural parent of the adopted person may be identified whether directly or indirectly); or

- (b) information about the adopted person from which a natural parent of the adopted person may be identified.
- (2) There shall not be given to an applicant under sub-section (1)—
 - (a) any information to which paragraph (b) of that sub-section applies from which a natural parent may be identified unless the relevant authority has obtained the agreement in writing, which may be given subject to conditions, or evidence of the death, of that natural parent; or
 - (b) any part of that information where the relevant authority determines that, in order to give effect to conditions imposed by a natural parent, that part of the information ought not to be disclosed.

Application to Court.

99. (1) Where a person—

- (a) is unable to obtain information to which section 94 (1) (b), 95 (1) (b), 96 (1) (b), 97 (2) (b) or 98 (1) (b) applies because a person whose agreement in writing is required refuses to agree in writing, has not agreed in writing or has not been found; or
- (b) being a person entitled to make application under a preceding section of this Division desires to obtain information which the person is not entitled to obtain under any other provision of this Part—

the first-mentioned person may make application to the County Court for an order permitting the applicant to obtain that information.

(2) An application under sub-section (1) shall be accompanied by a report from an approved counsellor.

(3) Where an application is made under sub-section (1), the County Court, if it is satisfied—

- (a) where the application is made because a person has not agreed in writing, and has not refused to agree in writing, to the giving of the information—that the relevant authority has taken reasonable steps to obtain that agreement;
- (b) where the application is made because a person has refused to agree in writing to the giving of the information—that it is in the best interests of the applicant that the information be given;
- (c) where the application relates to information which the applicant is not entitled to obtain under any other provision of this Part—that it is in the best interests of the applicant that the information be given, notwithstanding that the information relates to the personal affairs of another person or that another person may be identified from the information; and

- (d) after consideration of the report of the approved counsellor, that special circumstances exist which make it desirable so to do—

may make an order directing—

- (e) a relevant authority to give such information as is specified in the order to the applicant; or
- (f) a body or person to give such information as is specified in the order to the Director-General for transmission to the applicant or, where the order so states and the agency, body or person agrees, to the applicant.

(4) The County Court shall not make an order under sub-section (3) relating to information to the giving of which a person has not agreed in writing, or has refused to agree in writing, unless the County Court has given that person an opportunity to be heard in circumstances in which the identity of the person is not disclosed to the applicant.

Other person's right to information.

100. (1) A person who is not entitled to make application under a preceding provision of this Division may make application to the County Court for information about an adopted person.

(2) An application under sub-section (1) shall be accompanied by a report from the Director-General or from an approved counsellor.

(3) Where an application is made under sub-section (1) the County Court may, if it is satisfied that circumstances exist which make it desirable so to do, and after consideration of the report under sub-section (2), make an order directing—

- (a) the Director-General; or
- (b) an agency, body or person—

to give such information as is specified in the order to the applicant.

Division 3—Adoption Information Service

Interpretation.

101. In this Division “**adopted person**” includes a person who has been adopted, whether before or after the commencement of this section, in a place outside Victoria.

Adoption Information Service.

102. There shall be an Adoption Information Service established within the Department of Community Welfare Services and within each approved agency which shall—

- (a) advise persons with respect to the provisions of this Part;
- (b) make arrangements for the provision of counselling in relation to applications under this Part;

- (c) receive applications for information under this Part; and
- (d) subject to and in accordance with this Part, facilitate the provision of information to a person whose name is entered in the Adoption Information Register maintained under section 103; and
- (e) assist a person whose name is entered in that register to obtain information about an adopted person who has been adopted, whether before or after the commencement of this section, in a place outside Victoria and whose birth was not registered in Victoria, or about an adoptive parent or a natural parent of such an adopted person, being information of a kind that, if the adopted person had been adopted in Victoria, the person may have been able to obtain under Division 2.

Adoption Information Register.

103. (1) The Director-General and the principal officer of each approved agency shall establish and maintain an Adoption Information Register.

(2) An approved agency shall forward to the Director-General a copy of the particulars relating to each person in respect of whom an entry is made in the Adoption Information Register maintained by the agency and the Director-General shall enter those particulars in the Adoption Information Register maintained by the Director-General.

(3) There shall be entered in the Adoption Information Register—

(a) the names and addresses of persons, including—

- (i) adopted persons;
- (ii) relatives of adopted persons;
- (iii) natural parents of adopted persons; and
- (iv) adoptive parents of adopted persons—

who have in writing requested the Director-General or the principal officer of the approved agency so to enter their names and addresses; and

(b) in relation to each person so registered, the wishes of the person in relation to—

- (i) obtaining information about, or meeting or providing information; and
- (ii) whether or not to release the name, address or any information about the person—

to another person whose name is, or may in the future be, entered in the Adoption Information Register.

(4) The name and address of a person whose name is entered in the Adoption Information Register shall not be disclosed to any person (except in accordance with this Act) unless the person has given consent in writing to the disclosure of the name and address.