

- (b) a person to whom notice of the application for the order was given or a person claiming through such a person,

but does not affect—

- (c) the rights of any other person ;

or

- (d) an earlier judgment, order or decree of any court of competent jurisdiction whatsoever.

(7) In any proceedings in any court in this State, the production of a copy of an order under this section, certified by the Master of the Supreme Court, to be a true copy, shall—

- (a) where the proceedings relate to a person referred to in paragraph (a) or (b) of subsection (6) of this section, be conclusive evidence ;

and

- (b) where the proceedings relate to the rights of any other person, 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 39 of this Act applies.

---

## PART V.

---

## PART V.

### OFFENCES.

**41.** This Part does not apply in respect of acts occurring outside this State but, except to the extent to which the contrary intention appears, does apply in respect of acts done in this State in relation to the adoption or the proposed adoption of children in, and to children adopted or to be adopted in, another State or a Territory of the Commonwealth, or a country outside the Commonwealth and the Territories of the Commonwealth.

Territorial  
application  
of Part.

**42.** A person who was the father or mother or a guardian of a child but has, by reason of the adoption of the child, ceased to be the father or mother or guardian of the child shall not take, lead, entice or decoy the child away, or detain the child, with intent to deprive the adopter or adopters of possession of the child.

Taking away  
etc., of  
adopted  
child by  
natural  
parent.

**Penalty :** Four hundred dollars or imprisonment for six months.

**PART V.**

Harbouring  
child taken  
from  
adopters.

**43.** A person shall not receive or harbour a child on behalf of a person who, to his knowledge, has taken, led, enticed or decoyed the child away, or is detaining the child, in contravention of section 42 of this Act.

Penalty : Four hundred dollars or imprisonment for six months.

Payments in  
consideration  
of adoptions,  
etc.

**44.** (1) Subject to this section, a person who (whether before or after the birth of the child concerned) makes, gives or receives, or agrees or offers to make, give or receive, a payment or reward for or in consideration of or in relation to—

- (a) the adoption or proposed adoption of a child ;
  - (b) the giving of consent, or the signing of an instrument of consent, to the adoption of a child ;
  - (c) the transfer of possession or custody of a child with a view to the adoption of the child ;
- or
- (d) the conduct of negotiations or the making of arrangements with a view to the adoption of a child,

is guilty of an offence against this Act and liable on conviction to a penalty not exceeding Four hundred dollars or imprisonment not exceeding six months.

(2) The references in subsection (1) of this section to the adoption or proposed adoption of a child shall be read as including references to the adoption or proposed adoption of a child under the law of any place (whether in or outside the Commonwealth and the Territories of the Commonwealth).

(3) Subsection (1) of this section does not apply to or in relation to either of the following payments or rewards in connection with an adoption or a proposed adoption under this Act—

- (a) a payment made by the adopter or adopters, with the approval of the Director, in respect of the hospital and medical expenses reasonably incurred in connection with the birth of the child or the ante-natal or post-natal care and treatment of the mother of the child or of the child ;

or

- (b) any other payment or reward authorized in writing by the Director or by a court.

(4) Subsection (1) of this section does not apply to or in relation to a payment or reward in connection with an adoption or proposed adoption under the law of another State or of a Territory of the Commonwealth or of a country outside the

Commonwealth and the Territories of the Commonwealth if the making of the payment or the giving of the reward, or any agreement so to do would have been lawful if it had taken place in that State or Territory or country.

**45.** (1) Subject to this section, a person who publishes, or causes to be published, in a newspaper or periodical, or by means of broadcasting, television or public exhibition, any advertisement, news item or other matter indicating (whether or not in relation to a particular child, born or unborn) that—

**Restriction on advertising, etc.**

- (a) a parent or guardian of a child wishes to have the child adopted ;
- (b) a person wishes to adopt a child ;
- or
- (c) a person is willing to make arrangements with a view to the adoption of a child,

is guilty of an offence against this Act and liable on conviction to a penalty not exceeding Four hundred dollars or imprisonment not exceeding six months.

(2) Subsection (1) of this section does not apply in relation to an advertisement or other matter that has been authorized or approved by the Director.

**46.** (1) Subject to this section, a person who publishes or causes to be published, in a newspaper or periodical, or by means of broadcasting or television or public exhibition, in relation to any application under this Act or under a law of another State or of a Territory of the Commonwealth for the adoption of a child or for the discharge of an order for the adoption of a child, or in relation to the proceedings on any such application, the name of the applicant or applicants or of the child, the father or mother or a guardian of the child, or, where applicable, the name of the adopter or adopters of the child, or any matter reasonably likely to enable any of those persons to be identified is guilty of an offence against this Act and liable on conviction to a penalty not exceeding Four hundred dollars or imprisonment not exceeding six months.

**Restriction on publication of identity of parties.**

(2) Subsection (1) of this section does not apply to the publication of any matter with the authority of the court to which the application was made.

**47.** (1) Subject to subsections (2) and (3) of this section any person who, without being authorized in writing for the purpose by or on behalf of the Director, conducts or attempts to conduct any negotiation, or makes or attempts to make any arrangement with a parent or guardian of a child for or towards or with

**Penalty for making unauthorized arrangements for adoptions.**

a view to the adoption of the child or transfers or causes to be transferred the possession, custody or control of a child to some other person or persons with a view to the adoption of the child by such person or persons is guilty of an offence against this Act and liable on conviction to a penalty not exceeding Four hundred dollars or imprisonment not exceeding six months.

(2) The provisions of subsection (1) of this section do not apply to any negotiations or arrangements made by or on behalf of a parent, guardian or relative of a child for the adoption of the child by a parent or relative of the child or to any negotiations or arrangements made by the principal officer of a private adoption agency, or a person authorized in writing by such a principal officer to act on his behalf, with a view to the adoption of a child by any other person.

(3) The Director may in writing, generally or in any special case, and subject to such terms and conditions as are approved by the Minister, authorize any person or persons approved by the Minister to conduct any negotiation or make any arrangement with a parent or guardian of a child for or towards or with a view to the adoption of the child, or to transfer the possession, custody or control of a child to some other person or persons with a view to the adoption of the child by such person or persons.

**False statements in applications, etc.**

**48.** A person shall not, whether orally or in writing, wilfully make a false statement for the purposes of or in connection with a proposed adoption or any other matter under this Act.

Penalty : Four hundred dollars or imprisonment for six months.

**Personation.**

**49.** A person shall not personate or falsely represent himself to be a person whose consent to the adoption of a child is required by this Act or by the law of another State or of a Territory of the Commonwealth.

Penalty : Four hundred dollars or imprisonment for six months.

**Presenting forged consent.**

**50.** A person shall not present, or cause to be presented, to any court in connection with an application for an order for the adoption of a child under this Act a document purporting to be an instrument of consent to the adoption signed by a person whose consent to the adoption is required by this Act knowing that the signature to the document is or was forged or obtained by fraud or duress.

Penalty : Four hundred dollars or imprisonment for six months.

**Improperly witnessing consent.**

**51.** A person shall not subscribe his name as a witness to the signature of a person to an instrument of consent to the adoption

of a child (whether under this Act or under the law of another State or of a Territory of the Commonwealth) unless—

- (a) he is satisfied that the person signing the instrument is a parent or guardian of the child ;
  - (b) he takes such steps as are prescribed to satisfy himself that the person signing the instrument understands the effect of the consent ;
- and
- (c) the instrument bears the date on which he subscribes his name as a witness.

Penalty : Four hundred dollars or imprisonment for six months.

**52.** Proceedings for an offence against this Act shall not be commenced except with the written consent of the Minister. Authority to prosecute.

**53.** Any person guilty of an offence against this Act for which no penalty is expressly provided shall be liable to a penalty of not more than Four hundred dollars or to imprisonment for a term of not more than six months. General penalty.

**54.** Proceedings for any offence against this Act shall be disposed of summarily. Summary proceedings.

## PART VI.

## PART VI.

### MISCELLANEOUS.

**55.** The Adopted Children Register established and maintained under the repealed Act shall, subject to this Act, be continued and kept by the Principal Registrar of Births, Deaths and Marriages who shall cause such entries as are prescribed to be made therein. Adopted Children Register.

**56.** (1) Every court in this State which makes an adoption order shall cause a memorandum, in accordance with the appropriate form prescribed of such adoption order to be sent to the Principal Registrar of Births, Deaths and Marriages. Registration adoption orders.

(2) The Master of the Supreme Court shall cause a copy of every order discharging an adoption order to be sent to the Principal Registrar of Births, Deaths and Marriages.

(3) On receipt of a memorandum referred to in subsection (1) of this section or of a copy of an order referred to in subsection (2) of this section, the Principal Registrar of Births, Deaths and Marriages shall—

- (a) register it, as prescribed, in the Adopted Children Register ;

and

- (b) if it relates to a child whose birth is registered in the register of births kept by him, make such alterations to or entries in the appropriate registers as are prescribed.

Sending of memoranda of orders to other States and to Territories of the Commonwealth.

**57.** Where an order for the adoption of a child or an order discharging such an order is made and the Principal Registrar of Births, Deaths and Marriages has reason to believe that the birth of the child is registered in another State or in a Territory of the Commonwealth, he shall, as soon as practicable, cause a memorandum, in accordance with the prescribed form, of the adoption order, or a copy of the discharging order, as the case may be, certified in writing by him to be a true memorandum or copy, to be sent to such officer of that State or Territory having functions in relation to the registration of births as is prescribed.

Particulars of orders received from other States.

**58.** Where the Principal Registrar of Births, Deaths and Marriages receives, in relation to a child whose birth is registered in this State, a memorandum or copy of an adoption order made under the law in force in another State or in a Territory of the Commonwealth, or of an order discharging 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 or Territory, he shall—

- (a) register it, as prescribed, in the Adopted Children Register ;

and

- (b) make such alteration to, or entries in, the appropriate registers of births as are prescribed.

Application for approval of adoption agency.

**59.** A charitable organization carrying on, or desiring to carry on, the activity of conducting negotiations and making arrangements with a view to the adoption of children may apply in writing to the Director for approval as a private adoption agency.

Director may grant or refuse application.

**60.** (1) The Director—

- (a) may grant or refuse an application made under section 59 of this Act ;

and

- (b) shall give notice in writing served personally or by registered post of his decision to the person specified in the application as the principal officer of the organization.

(2) Without limiting the generality of subsection (1) of this section, the Director shall refuse an application if it appears to him that the applicant is not a charitable organization or is not suited to carrying on the activity of conducting negotiations and making arrangements with a view to the adoption of children, having regard to all relevant considerations, including the qualifications, experience, character and number of the persons taking part, or proposing to take part, in the management or control of the organization, or engaged or proposed to be engaged, on behalf of the organization, in the conducting of such negotiations or the making of such arrangements.

(3) Every approval of a charitable organization as a private adoption agency shall be subject to such conditions and requirements as may be prescribed, and to such additional conditions and requirements as the Director, in any particular case, thinks fit and specifies in the notice given to its principal officer under subsection (1) of this section.

**61.** (1) Before making an application under section 59 of this Act, a charitable organization shall appoint a person resident in South Australia to be its principal officer in South Australia for the purposes of this Act in the event of the granting of the application.

Principal officer of private adoption agency.

(2) If the application is granted, the private adoption agency shall, within seven days after the occurrence of a vacancy in the office of principal officer, appoint a person resident in South Australia to fill the vacancy and give notice in writing to the Director of the appointment.

(3) An application under section 59 of this Act shall specify the name of the principal officer, and the address of the principal office in South Australia, of the charitable organization making the application.

(4) For the purposes of subsection (2) of this section, the office of principal officer shall be deemed to become vacant if the person holding the office ceases to be resident in South Australia.

(5) Anything done or omitted by the principal officer of a private adoption agency, or with his approval, shall, for the purposes of this Part and any regulations relating to private adoption agencies but without prejudice to any personal liability of the principal officer, be deemed to be done or omitted by the private adoption agency.

**PART VI.**

Revocation  
or suspension  
of approval.

**62.** (1) The Director may, at any time, revoke or suspend the approval of a charitable organization as a private adoption agency under this Part—

- (a) at the request of the agency ;
- (b) on the ground that the agency is no longer suited to carrying on the activity of conducting negotiations and making arrangements with a view to the adoption of children, having regard to all relevant considerations, including the matters referred to in subsection (2) of section 60 of this Act ;

or

- (c) on the ground that the agency or any of its officers has contravened, or failed to comply with, a provision of this Act that is applicable to it or him or any additional condition or requirement referred to in subsection (3) of section 60 of this Act or subsection (3) of section 63 of this Act.

(2) Where the Director has revoked or suspended the approval of a private adoption agency under the provisions of subsection (1) of this section, he shall give notice in writing served personally or by registered post on the principal officer of the private adoption agency of such revocation or suspension.

Appeal against  
refusal, re-  
vocation or  
suspension.

**63.** (1) Where the Director—

- (a) refuses an application of an organization under section 60 of this Act ;
- (b) approves of such an application subject to additional conditions or requirements referred to in subsection (3) of section 60 of this Act ;

or

- (c) revokes or suspends the approval of a charitable organization as a private adoption agency in accordance with the provisions of section 62 of this Act,

the organization may appeal to the Supreme Court against the decision of the Director.

(2) Notice in writing of intention to appeal and the general grounds of the appeal shall be given on behalf of the organization to the Master of the Supreme Court and the Director within twenty-one days after the service of notice of the decision.



(3) On the hearing of an appeal under this section, the Supreme Court shall review the decision of the Director and may order that the decision of the Director be confirmed, or may order that the organization be approved as a private adoption agency subject to such conditions and requirements as may be prescribed and to such additional conditions and requirements as the Supreme Court thinks fit and specifies in its order, or may annul the revocation or suspension of the approval of the organization as a private adoption agency.

**64.** (1) The Director shall cause to be published in the *Gazette* notice of the approval of any charitable organization as a private adoption agency under this Part and of the revocation or suspension and of the annulment of the revocation or suspension of any such approval.

Notice of approval to be published in *Gazette*.

(2) Every such notice shall specify the address of the principal office of the agency concerned and the full name of the principal officer of the agency.

**65.** (1) An application under this Act shall not be heard in open court and persons who are not parties to the proceedings and their counsel, solicitors and representatives shall, except as otherwise directed by the court and subject to section 16 of this Act, be excluded during the hearing of such an application.

Hearing to be *in camera*.

(2) The court may, at the hearing of an application under this Act—

(a) order a child to leave the room or other place in which the court is hearing the application at any time during the hearing if it is of opinion that such a direction should be given in the interests of the child ;

and

(b) order any person to leave that room or other place during the examination of a witness.

**66.** A report to the court under section 16 of this Act, or any part of such a report, shall not be made available to any person, including a party to the proceedings unless, upon application made by that person to a judge of the Supreme Court, the judge is satisfied, having regard to all relevant matters, that the report or part of the report ought to be made available to that person and has made an order that it be made available accordingly.

Contents of report not to be disclosed.

**PART VI.**

Restriction on inspection of records.

**67.** Except as provided by the regulations, the records of any proceedings under this Act shall not be open to inspection.

Costs.

**68.** In proceedings in any court under this Act, the court may, subject to the regulations, make such orders as to costs and security for costs, whether by way of interlocutory order or otherwise, as the court thinks just.

Proof of adoptions.

**69.** In proceedings in any court in this State—

(a) a document purporting to be either the original or a certified copy of or a certified extract from an order effecting an adoption (whether made in this State or elsewhere) ;

or

(b) a certified copy of an entry in any public official record of the adoption of children (whether kept in this State or elsewhere) or a certificate or extract giving particulars of such an entry and purporting to be signed by the person having the custody of such record,

shall be *prima facie* evidence of the making of the order and of the facts stated therein.

Judicial notice of signatures.

**70.** (1) In proceedings under this Act, or affecting any matter under this Act, judicial notice shall be taken of the signature of a person who holds or has held or is acting or has acted in any of the following Offices, that is to say—

(a) the office of Director of Social Welfare under the Social Welfare Act, 1926-1965 ;

(b) the office of Chairman, Children's Welfare and Public Relief Board, under the Maintenance Act, 1926-1963 ;

and

(c) any office in another State or in a Territory of the Commonwealth corresponding with the office of Director of Social Welfare,

appearing on a document and of the fact that, at the time the document was signed by him, he held, or was acting in, that office.

(2) In proceedings under this Act, or affecting any matters under this Act, judicial notice shall also be taken of the signature of a person to whom any of the powers, functions or duties of the Director have been delegated (whether under this Act or otherwise).

**71.** The power to make rules of court conferred by the Supreme Court Act, 1935-1965, on Judges of the Supreme Court shall be deemed to include power to make rules for regulating the exercise of the jurisdiction conferred by this Act on the Supreme Court.

Rules of  
Court.

**72.** The Governor may make such regulations, not inconsistent with this Act, as may be necessary or convenient for the purpose of carrying out or giving effect to this Act or the objects thereof, including (but without limiting the generality of the foregoing) regulations prescribing or making provision for—

Regulations.

- (a) matters of practice, procedure or evidence in or in connection with proceedings under this Act before a court which has jurisdiction to make adoption orders ;
  - (b) the respective forms to be used for purposes of this Act ;
  - (c) the mode of registering, and keeping proper registers of, orders made under this Act ;
  - (d) fees to be paid in respect of proceedings and orders for the adoption of children and in respect of any matter provided for by or under this Act, and the waiving of any such fees ;
  - (e) the form and manner in which any application for an adoption order is to be made and dealt with where the applicant or applicants desires or desire that the application be dealt with in such a way that—
    - (i) the identities of the child and of the parents and guardians of the child are not to be disclosed to the applicant or applicants ;
    - (ii) the identity or identities of the applicant or applicants is not or are not to be disclosed to any parent or guardian of the child ;
- or
- (iii) the identities of the child and of the parents or guardians of the child and of the applicant or applicants are not to be disclosed to one another ;
- (f) the practice and procedure to be followed in obtaining and giving notice of any consent required for the purposes of this Act ;
- (g) the payment of witnesses' expenses in connection with proceedings under this Act ;

- (h) the prohibition or regulation of access to the Adopted Children Register ;
  - (i) matters to be included in or excluded from the Adopted Children Register, and the correction, alteration or cancellation of any entries therein ;
  - (j) the furnishing of copies of, or extracts from, matters included in the Adopted Children Register ;
  - (k) the making, correction, alteration or cancellation of entries relating to adopted children in the registers of births kept under the law of this State ;
  - (l) the conduct of private adoption agencies and the conditions and requirements to be observed, and facilities to be provided, by private adoption agencies, including conditions and requirements with respect to the qualifications and experience necessary for persons acting for or employed by private adoption agencies ;
  - (m) the keeping of registers by the Director of persons approved by him as fit and proper persons to adopt children and the order in which persons whose names are included in any such list may be selected to be applicants for adoption orders ;
  - (n) the making of appeals against the exclusion of the name of any person from any such register and the conferring of jurisdiction on any special magistrate or court to hear and determine those appeals ;
  - (o) all matters which ought to be prescribed or provided for in order to carry out the objects of, or to give effect to, this Act ;
  - (p) all other matters and things arising under and consistent with this Act, not expressly provided for ;
- and
- (q) penalties, not exceeding One hundred dollars in each case, for offences under, or breaches of, the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

EDRIC BASTYAN, Governor.

THE SCHEDULE.

ACTS REPEALED.

Section 3.

First Column. Short title of Act.	Second Column. Extent of Repeal.
Adoption of Children Act, 1925 . . . . . Adoption of Children Act Amendment Act, 1931	The whole The whole
Statute Law Revision Act, 1934 . . . . .	So much of the Second Schedule thereto as refers to or affects the Adoption of Children Act Amendment Act, 1931.
Statute Law Revision Act, 1936 . . . . .	So much of the Second Schedule thereto as refers to or affects the Adoption of Children Act, 1925.
Adoption of Children Act Amendment Act, 1940	The whole
Adoption of Children Act Amendment Act, 1943	The whole
Maintenance Act Amendment Act, 1965 . . . . .	So much of the Schedule thereto as refers to or affects the Adoption of Children Act, 1925-1943 (including the new citation "Adoption of Children Act, 1925-1965" appearing in the Second Column of that Schedule).

Acts of the Parliament of South Australia [electronic resource]  
 Corporate Author: South Australia

AIATSIS Library, ELECTRONIC ACCESS ONLY  
 vn1622047-14x