



Queensland

*Adoption Act 2009*

# **Adoption Regulation 2009**

**Current as at 1 February 2010**

# Information about this reprint

This regulation is reprinted as at 1 February 2010.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- correct minor errors (s 44).

This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including table of corrected minor errors.**

## Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

**Replacement reprint date** If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



## Queensland

# Adoption Regulation 2009

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# Adoption Regulation 2009

[reprinted as in force on 1 February 2010]

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Adoption Regulation 2009*.

### 2 Commencement

This regulation commences on 1 February 2010.

### 3 Dictionary

The dictionary in schedule 3 defines particular words used in this regulation.

## Part 2 Requirements for expressing an interest

### 4 Requirements for expressing an interest—Act, s 71

This part states the requirements with which a couple must comply when expressing an interest under part 4, division 2 of the Act.

[s 5]

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**5 Requirement to demonstrate ability to provide personal care**

- (1) The couple must demonstrate they are aware it is ordinarily in a child's best interests to receive full-time care provided personally by one or both of the persons with whom the child is placed for at least 1 year after the child is placed in their care.
- (2) The couple must provide details to the chief executive of their proposed, or expected, care arrangements for a child for at least the first year of the child's placement with them.

**6 Requirement to demonstrate financial capacity for an intercountry adoption**

- (1) This section applies to a couple who make an expression of interest for an intercountry adoption.
- (2) The couple must demonstrate they have the financial capacity to meet the full cost of completing the adoption process within 3 years of the day they make the expression of interest.
- (3) For subsection (2), the full cost of completing the adoption process may include the following—
  - (a) fees as prescribed in schedule 2;
  - (b) fees payable in another country to an entity associated with the adoption;
  - (c) fees payable in relation to the child's migration to Australia;
  - (d) costs related to the translation of documents;
  - (e) costs of having documents notarised and couriered between countries;
  - (f) costs of travel to, and accommodation in, another country to take custody of a child.

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## Part 3                      Suitability of a person to be an adoptive parent

### 7            **Assessment of a step-parent’s suitability to be an adoptive parent—Act, s 133**

- (1) This section applies to an assessment for a proposed adoption of a child by a step-parent after the death of a parent of the child.
- (2) Prescribed matters the chief executive must have regard to when deciding whether a step-parent is suitable to be an adoptive parent are—
  - (a) the views of the deceased parent’s family, if they can be located, on the adoption of the child by the step-parent; and
  - (b) the step-parent’s attitudes to, and understanding of the significance to the child of—
    - (i) the deceased parent; and
    - (ii) the deceased parent’s family; and
    - (iii) maintaining a relationship with the deceased parent’s family.

## Part 4                      Proof of identity documents

### 8            **What are the *prescribed identity documents***

- (1) For this part, the *prescribed identity documents* are 2 documents complying with this section.
- (2) Each document must be—
  - (a) a document listed in schedule 1; or
  - (b) another document the chief executive considers to provide sufficient evidence of the person’s identity.

[s 9]

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- (3) Each document must be either an original document or a certified copy of an original document.
- (4) The 2 documents must contain, between them, sufficient information to determine the person's full name, date of birth and signature.
- (5) Each document must be written in English or accompanied by a certified translation of the original document.
- (6) If the person's full name as it appears on either of the 2 documents is different to the person's current name, the person must produce a document the chief executive considers to provide sufficient evidence of the person's change of name.

*Examples—*

a marriage certificate, deed poll or change of name certificate

## **9 Proof of identity documents to accompany a parent's form of consent—Act, s 18(2)(c)**

The documents prescribed for section 18(2)(c) of the Act are the prescribed identity documents under section 8.

## **10 Proof of identity documents to accompany a request for information—Act, s 254(1)(b)**

- (1) The documents prescribed for section 254(1)(b) of the Act are the prescribed identity documents under section 8.
- (2) For this section, the chief executive may consider a document to provide sufficient evidence of the person's identity if the document is evidence of the person's identity that was provided to the department—
  - (a) under an application under the *Right to Information Act 2009* or the *Information Privacy Act 2009*; and
  - (b) for access to documents relating to an adoption for which the person is—
    - (i) the adopted person; or



- (ii) a birth parent or adoptive parent of the adopted person; or
- (iii) a relative of the adopted person, birth parent or adoptive parent; or
- (iv) a guardian of the adopted person, birth parent or adoptive parent.

*Note—*

See section 249 (Meaning of *relative*) of the Act.

**11 Proof of identity documents to accompany a notice of intention to take part in the mailbox service—Act, s 283(1)(b)**

- (1) The documents prescribed for section 283(1)(b) of the Act are the prescribed identity documents under section 8.
- (2) In this section, the chief executive may consider a document to provide sufficient evidence of the person's identity if the document is evidence of the person's identity that was previously provided to the department—
  - (a) to exchange information, that had been disclosed for a purpose under section 59(4) of the repealed Act, between parties to an adoption; or
  - (b) in an earlier notice of intention to take part in the mailbox service.

## **Part 4 Miscellaneous**

**12 Fees**

The fees payable under the Act are stated in schedule 2.

[s 13]

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### **13 Fees payable by couples**

For the purpose of paying a fee prescribed in schedule 2 a couple is to be charged as a single person and not as 2 persons.

### **14 Fees for re-assessment**

A fee listed in schedule 2, part 2 is not payable for a re-assessment under part 6, division 8 of the Act.

### **15 Supervision fee nil in certain circumstances**

- (1) This section applies to a person for whom, before the commencement of this section, a supervision fee was not payable because of the operation of section 35 of the repealed regulation.
- (2) The fee amount prescribed for section 198(3) or 298(3) of the Act is nil.

### **16 Persons entitled to certificate, information or source document—Act, s 290**

- (1) The following persons are prescribed for section 290(1)(c) of the Act—
  - (a) if a guardian has been appointed for the applicable person—the guardian;
  - (b) if an administrator has been appointed under the *Guardianship and Administration Act 2000*, section 14, for the applicable person—the administrator;
  - (c) if a personal representative has been appointed for the applicable person—the personal representative;
  - (d) a person who produces an order of a court of the State or Commonwealth requiring the registrar to accept an application under the *Births, Deaths and Marriages Registration Act 2003*, section 44.

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- (2) At the time a prescribed person mentioned in subsection (1)(a), (b) or (c), with authorisation from the chief executive, makes an application to the registrar under the *Births, Deaths and Marriages Registration Act 2003*, section 44, the person must produce—
- (a) prescribed identity documents stated in section 8; and
  - (b) if requested by the registrar, photographic identification; and
  - (c) the person's instrument of appointment demonstrating the document sought is required under the person's appointment.
- (3) An instrument of appointment produced for subsection (2)(c) must either be written in English or accompanied by a certified translation of the original instrument of appointment.
- (4) At the time a prescribed person mentioned in subsection (1)(d), with authorisation from the chief executive, makes an application to the registrar under the *Births, Deaths and Marriages Registration Act 2003*, section 44, the person must produce the prescribed identity documents stated in section 8.
- (5) In this section—
- applicable person*** means—
- (a) an adoptive parent;
  - (b) an adopted child with consent of an adoptive parent to obtain pre-adoption information;
  - (c) an adopted adult;
  - (d) an adult relative of a deceased or incapacitated adopted person;
  - (c) a birth parent;
  - (d) an adult relative of a deceased or incapacitated birth parent;
  - (e) a person to whom section 267 of the Act applies.

*Note—*

See section 249 (Meaning of *relative*) of the Act.

[s 17]

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**17 A certificate signed by the chief executive used in evidence for proceedings under the Act—Act, s 312(3)(i)**

A certificate purporting to be signed by the chief executive, produced in proceedings under the Act, is evidence that the chief executive placed a stated child in the custody of stated prospective adoptive parents on a stated date.

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## Schedule 1 Prescribed identity documents

### section 8(2)(a)

- 1 a birth certificate
- 2 a citizenship certificate
- 3 an Australian passport that is current or has been expired for less than 2 years
- 4 a current overseas passport
- 5 a current driver licence containing the person's photograph
- 6 a current proof of age card containing the person's photograph
- 7 a current document evidencing the person's residency or visa status
- 8 a current Medicare card, pensioner concession card, health care card or another identification card issued by the Australian government as evidence of a person's entitlement to a benefit
- 9 a current positive notice blue card issued under the *Commission for Children and Young People and Child Guardian Act 2000*
- 10 a telephone, gas or electricity account not more than 1 year old
- 11 a current credit card, debit card or other account card from a financial institution which includes an embossed name and signature
- 12 a passbook or statement of account from a financial institution which is not more than 1 year old
- 13 a notice of rates from a local government that is not more than 1 year old
- 14 a current student identity card containing the person's photograph or signature issued by a school or another educational institution

Schedule 1

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- 15 a Queensland Government employee identity card containing the person's photograph
- 16 an Australian State police officer, Federal police officer or Australian Defence Force identity card containing the person's photograph
- 17 a current crowd controller's licence, private investigator's licence or security officer's licence issued under the *Security Providers Act 1993*
- 18 a current licence issued under the *Weapons Act 1990*

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## Schedule 2      Fees

section 12

### Part 1                      Application fee

	\$
1    Application fee for the step-parent to adopt the stepchild (s 93(c) of the Act) . . . . .	61.85

### Part 2                      Assessment fee

	\$
2    Assessment under part 6 of the Act—	
(a) for a person who has made an application under part 5 for the adoption of the person's stepchild. . . . .	463.95
(b) where the chief executive's selection is based on anticipated local adoption placement needs under section 88 of the Act . . . . .	502.40
(c) where the chief executive's selection is based on anticipated intercountry adoption placement needs under section 88 of the Act . . . . .	3 608.50
(d) where the chief executive's selection is based on anticipated placement needs of a child under section 89 of the Act . . . . .	nil

## **Part 3                      Supervision fee**

		<b>\$</b>
3	Supervision fee for intercountry adoption under either section 198(3) or 298(3) of the Act . . . . .	1 546.50



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## Schedule 3      Dictionary

### section 3

***certified copy***, of an original document, means a copy that has been certified by a qualified witness as being a correct copy of the original document.

***certified translation***, of a document, means a translation of the document into the English language by a translator who certifies—

- (a) the translator's full name and address; and
- (b) the translator's accreditation or qualifications for making the translation; and
- (c) that the translation is correct.

***prescribed identity documents*** see section 8.

***qualified witness*** means—

- (a) an officer or employee of the department; or
- (b) a lawyer or notary public; or
- (c) a commissioner for declarations; or
- (d) a justice of the peace; or
- (e) a police officer; or
- (f) a medical practitioner; or
- (g) an authorised person mentioned in section 18 of the Act.

***repealed regulation*** means the repealed *Adoption of Children Regulation 1999*.

## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Adoption Regulation 2009 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 February 2010	

## 5 List of legislation

### Adoption Regulation 2009 SL No. 303

made by the Governor in Council on 9 December 2009

notfd gaz 11 December 2009 pp 1187–91

ss 1–2 commenced on date of notification

remaining provisions commenced 1 February 2010 (see s 2)

exp 1 September 2020 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

## 6 Table of corrected minor errors

under the Reprints Act 1992 s 44

Provision	Description
sch 1, hdg	om ‘sections’ ins ‘section’

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