

Queensland



ANNO TERTIO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 54 of 1964

**An Act to Consolidate and Amend the Law Relating to the
Adoption of Children**

[ASSENTED TO 21ST DECEMBER, 1964]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as "*The Adoption of Children Act of 1964.*"

2. Commencement. (1) Subject to subsection (2) of this section, this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

(2) Sections one, two, three, four and six, Division 2 of Part III, Part V and sections sixty-four, sixty-five and sixty-six of this Act shall come into operation on the date of publication in the *Gazette* of the Proclamation for the purposes of subsection (1) of this section.

3. Parts. This Act is divided into Parts and Divisions, as follows:—

PART I—PRELIMINARY (ss. 1–6);

PART II—JURISDICTION (ss. 7–9);

PART III—ADOPTIONS UNDER THIS ACT;

Division 1—General (ss. 10–16);

Division 2—Adoption List (ss. 17–18);

Division 3—Consents to Adoptions (ss. 19–27);

Division 4—Effect of Adoption Orders (ss. 28–32);

Division 5—Interim Orders (ss. 33–35);

PART IV—RECOGNITION OF ADOPTIONS (ss. 36–39);

PART V—OFFENCES (ss. 40–53); and

PART VI—MISCELLANEOUS (ss. 54–66).

THE SCHEDULE.

4. Severability. This Act including every Proclamation, Order in Council and regulation hereunder shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment hereof or provision of any Proclamation, Order in Council or regulation hereunder would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

5. Repeals and Savings. (1) The Acts and enactments set out in the Schedule to this Act are hereby repealed to the extent indicated in the third column of that Schedule:

Provided that, but without limiting the operation of “*The Acts Interpretation Acts, 1954 to 1962*”—

- (a) All books, registers and records kept and maintained under the repealed Acts shall be deemed to be so kept and maintained under this Act, and all entries therein shall be deemed to have been made under this Act;
- (b) All certificates and certified copies of and certified extracts from entries in any register kept and maintained under the repealed Acts and issued under the repealed Acts shall be valid and effectual as if issued under this Act;
- (c) Every adoption order made under the repealed Acts and in force immediately prior to the commencement of this Act shall continue in force and shall, subject to this Act, be valid and effectual as if made under this Act and may be discharged in accordance with this Act;
- (d) Every interim order of adoption made under the repealed Acts and in force immediately prior to the commencement of this Act shall continue in force and shall, subject to this Act, be valid and effectual as if made under this Act until it expires by effluxion of time or is discharged or otherwise determined under this Act;
- (e) Every application for an order for the adoption of a child under the repealed Acts that was pending immediately prior to the commencement of this Act may be continued and dealt with, and proceedings incidental to such an application may be

instituted, continued and dealt with, under the provisions of the repealed Acts as if this Act had not come into operation, but an adoption order made pursuant to this paragraph shall have effect as if made under this Act.

(2) A consent in writing to the adoption of a child by a person or persons given by a person before the commencement of this Act in accordance with the repealed Acts shall, for the purposes of proceedings under this Act for the adoption of the child by the person or persons specified in the consent, be deemed to be a sufficient consent of the person giving the consent.

(3) Subject to subsection (4) of this section, the provisions of sections twenty-eight and twenty-nine (other than subsection (4)) of this Act apply in relation to an adoption order made under the repealed Acts as if this Act had been in force when the order was made and the order had been made under this Act.

(4) In relation to a disposition of property by will or otherwise by a person who, or by persons any of whom, died before the commencement of this Act, an adoption order referred to in subsection (3) of this section has the same effect as if the repealed Acts had not been repealed.

6. Interpretation. Without limiting the operation of "*The Acts Interpretation Acts, 1954 to 1962*," in this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

- "Adopted Children Register"—The Adopted Children Register made and kept by the Registrar-General under the repealed Acts and continued by and kept under this Act;
- "Adoption list"—The list kept by the Director under section seventeen of this Act;
- "Adoption order"—An order for the adoption of a child under this Act; where applicable the term includes an order for the adoption of a child under the repealed Acts;
- "Child"—A person who has not attained the age of twenty-one years, or a person who has attained that age in respect of whom an adoption order is sought or has been made;
- "Commonwealth"—The Commonwealth of Australia;
- "Director"—The Director of the State Children Department under "*The State Children Acts, 1911 to 1955*"; the term includes the Deputy Director of the State Children Department when, pursuant to those Acts, exercising any power, authority or function, or performing any duty conferred or imposed by those Acts on the Director;
- "Disposition of property" includes the grant or exercise of a power of appointment in respect of property;
- "Father", in relation to a child who is illegitimate—the putative father;
- "General consent"—A consent referred to in subsection (1) of section twenty of this Act; where applicable the term includes a consent of a similar nature for the adoption of a child given under the repealed Acts;

- “Guardian”, in relation to a child includes—
- (a) a person having the custody of the child pursuant to an order of a court made under a law of the Commonwealth or of a State or Territory of the Commonwealth;
 - (b) a person who is or is deemed to be the guardian of the child, to the exclusion of, or in addition to, any parent or other guardian, under a law of the Commonwealth or of a State or Territory of the Commonwealth;
- “Interim order”—An interim order under Division 5 of Part III of this Act; where applicable the term includes an interim order of adoption made under the repealed Acts and continued under this Act;
- “Minister”—The Minister for Labour and Industry or other Minister of the Crown for the time being charged with the administration of this Act;
- “Registrar-General”—The Registrar-General under “*The Registration of Births, Deaths and Marriages Act of 1962*”; the term includes the Deputy Registrar-General under that Act;
- “Registrar of the Supreme Court”—The Registrar of the Supreme Court under “*The Supreme Court Act of 1867*”; where applicable the term includes the Registrar of the Central Court and the Registrar of the Northern Court under “*The Supreme Court Act of 1895*”;
- “Relative”, in relation to a child—A grandparent, brother, sister, uncle or aunt of the child, whether the relationship is of the whole blood or half blood or by affinity, and notwithstanding that the relationship is traced through, or to, an illegitimate person or depends upon the adoption of any person;
- “Supreme Court” or “the Court”—The Supreme Court of Queensland or a Judge thereof; where applicable the term includes the Central Court and the Northern Court or a Judge thereof;
- “The commencement of this Act”—The commencement of the provisions of this Act other than the provisions specified in subsection (2) of section two of this Act;
- “The repealed Acts”—The Acts and enactments repealed by subsection (1) of section five of this Act, or any of them;
- “Territory of the Commonwealth” includes any Territory under the trusteeship of the Commonwealth.

PART II—JURISDICTION

7. **Adoption by order of the Director.** (1) Upon an application made as prescribed by any person or persons desirous of being authorised to adopt a child, the Director may, in accordance with this Act, make an order (in this Act referred to as an “adoption order”) authorising the applicant or applicants to adopt the child.

(2) A person or persons so authorised to adopt a child and a child so authorised to be adopted are in this Act referred to as an “adopter” or the “adopters”, and an “adopted child” respectively.

8. Cases in which adoption orders may be made. (1) The Director shall not make an order for the adoption of a child unless, at the time of the making of the order—

- (a) the applicant, or (in the case of joint applicants) each of the applicants, is resident or domiciled in Queensland; and
- (b) the child is present in Queensland.

(2) For the purposes of subsection (1) of this section, where the Director is satisfied that an applicant was resident or domiciled in Queensland, or that the child was present in Queensland, on a date within twenty-one days before the date of the making of the order, he may, in the absence of information to the contrary, presume that the applicant is resident or domiciled in Queensland, or that the child is present in Queensland, as the case may be, at the time of the making of the order.

9. Rules of private international law not to apply. The power of the Director to make an adoption order is not dependent on any fact or circumstance not expressly specified in this Act.

PART III—ADOPTIONS UNDER THIS ACT

Division 1—General

10. Welfare and interests of child to be paramount. For all purposes of this Part, the welfare and interests of the child concerned shall be regarded as the paramount consideration.

11. Who may be adopted. (1) Subject to this Act, the Director may make an order for the adoption of a person who—

- (a) had not attained the age of twenty-one years before the date on which the application was made; or
- (b) has been brought up, maintained and educated by the applicant or applicants, or by the applicant and a deceased spouse of the applicant, as his or their child under a *de facto* adoption.

(2) The Director shall not make an order for the adoption of a person who is, or has been, married.

(3) An order may be made under this Act for the adoption of a child notwithstanding that the child has, whether before or after the commencement of this Act, and whether in Queensland or elsewhere, previously been adopted.

12. Persons in whose favour adoption orders may be made. (1) Except as provided by subsection (2) of this section an adoption order shall not be made otherwise than in favour of a husband and wife jointly.

(2) Subject to subsection (3) of this section, where the Director is satisfied that exceptional circumstances make it desirable so to do, he may make an adoption order in favour of one person.

(3) The Director shall not make an adoption order in favour of one person if that person is married and is not living separately and apart from his or her spouse.

(4) The Director may make an adoption order in favour of a husband and wife jointly notwithstanding that one of them is a natural parent of the child.

13. Age of adopters. The Director shall not make an order for the adoption of a child in favour of a person who or persons either of whom—

- (a) has not attained the age of twenty-one years; or
- (b) being a male person, is less than eighteen years older than the child, or, being a female person, is less than sixteen years older than the child,

unless the applicant, or at least one of the applicants, is a natural parent of the child or the Director considers that there are exceptional circumstances that justify making the adoption order.

14. Director to be satisfied as to certain matters. (1) The Director shall not make an order for the adoption of a child unless he is satisfied that—

- (a) the applicant, or (in the case of joint applicants) each of the applicants, is of good repute and is a fit and proper person to fulfil the responsibilities of a parent of a child;
- (b) the applicant, or (in the case of joint applicants) each of the applicants, is a suitable person to adopt that child, having regard to all relevant matters, including the age, physical appearance, state of health, education (if any) and religious upbringing or convictions (if any) of the child and of the applicant or applicants, and any wishes that have been expressed by a parent or guardian of the child, in an instrument of consent to the adoption of the child, with respect to the religious upbringing of the child; and
- (c) the welfare and interests of the child will be promoted by the adoption.

(2) Subsection (1) of this section does not apply in relation to an order, in accordance with subsection (1) of section eleven of this Act, for the adoption of a child who has attained the age of twenty-one years before the date of the making of the order, but the Director shall not make an adoption order in such a case unless he is satisfied that—

- (a) the applicants are of good repute; and
- (b) exceptional circumstances make it desirable that the child should be adopted.

15. Notice of intention to make adoption order. The Director, before making an order for the adoption of a child, may give notice of his intention to make the order—

- (a) to any person (not being a person whose consent to the adoption of the child is required under section nineteen of this Act) with whom the child resides or who has the care or custody of the child; and
- (b) where it appears to the Director to be desirable so to do, to any other person.

16. Discharge of adoption orders. (1) The Director may apply to the Supreme Court for an order discharging an order for the adoption of a child made under this Act or under the repealed Acts, and the Court may make such an order if it is satisfied that—

- (a) the child has not attained the age of twenty-one years; and

- (b) the adoption order, or any consent for the purposes of the adoption order, was obtained by fraud, duress or other improper means, or that there is some other exceptional reason why, subject to the welfare and interests of the child, the adoption order should be discharged.

(2) The Court shall not make an order under this section if it appears to the Court that the making of the order would be prejudicial to the welfare and interests of the child.

(3) Where the Court makes an order discharging an adoption order that was made in reliance upon a general consent given under this Act or under the repealed Acts, then, unless the Court otherwise orders, the general consent remains in operation for the purposes of a further application for the adoption of the child.

(4) Where the Court makes an order under this section, it may, at the same time or subsequently, make such consequential or ancillary orders as it thinks necessary in the interests of justice or the welfare and interests of the child, including orders relating to—

- (a) the name of the child;
- (b) the ownership of property;
- (c) the custody or guardianship of the child; or
- (d) the domicile (including the domicile of origin) of the child.

(5) Upon the making of an order under this section discharging an order for the adoption of a child, but subject to any order made under subsection (4) of this section and to subsection (2) of section twenty-eight of this Act, the rights, privileges, duties, liabilities and relationships of the child and of all other persons shall be the same as if the adoption order had not been made, but without prejudice to—

- (a) anything lawfully done;
- (b) the consequences of anything unlawfully done; or
- (c) any right or interest that became vested in any person,

whilst the adoption order was in force.

Division 2—Adoption List

17. Adoption List. (1) The Director shall, in accordance with this section, keep a list of the names of married couples resident or domiciled in Queensland who wish to adopt children and who have applied to have their names included in the list, being persons whom he considers to be fit and proper persons to adopt children.

(2) The Director shall—

- (a) keep the adoption list in a form that indicates the order in which the applications by virtue of which names were included in the list were received by him; and
- (b) keep, in connection with the adoption list, such particulars as he thinks necessary of each married couple whose names are included in the list and of the description of child that they wish to adopt.

(3) The Director shall, in such manner as he thinks appropriate, incorporate in the adoption list kept under this Division the list or record that was kept before the commencement of this Division of the names of married couples wishing to adopt children and regarded as fit and proper persons to do so.

(4) Where the Director is satisfied that any persons applying to have their names included in the adoption list kept by him are persons whose names are, or were within one month before the date of the application, included in a similar adoption list kept by an officer of another State or of a Territory of the Commonwealth, the Director may treat the application as having been received by him on the date certified in writing by that officer to be the date on which the application by virtue of which the names were included in the list kept by that officer was received, or was treated as having been received, by that officer.

18. Director to have regard to adoption list. In making arrangements with a view to the adoption of a child and, in particular, in determining the person or persons whose application for an adoption order he will approve in the case of a child in respect of whom a general consent has been given under this Act or under the repealed Acts, the Director shall, without prejudice to his duty to consider all other relevant matters, have regard to the adoption list and to the order in which the persons whose names are on the adoption list made application for the inclusion of their names on that list.

Division 3—Consents to Adoptions

19. Consents of parents and guardians required to adoptions.

(1) Subject to this Division, the Director shall not make an order for the adoption of a child unless consent (not being a consent that has been revoked) to the adoption has been given by the appropriate person or persons ascertained in accordance with the succeeding provisions of this section, or the Director is satisfied that there is no such appropriate person.

(2) In the case of a legitimate child who has not previously been adopted, the appropriate persons are every person who is a parent or guardian of the child.

(3) In the case of an illegitimate child who has not previously been adopted, the appropriate person is every person who is the mother or guardian of the child.

(4) In the case of a child who has previously been adopted, the appropriate persons are every person who is an adoptive parent or guardian of the child.

(5) The consent of a person under this section is not required if that person is the applicant, or one of the applicants, for the adoption order.

(6) This section does not apply in the case of a child who has attained the age of twenty-one years before the making of the adoption order.

(7) Notwithstanding section twenty-three of this Act, where the Director is, pursuant to "*The State Children Acts, 1911 to 1955*," the guardian of the child, it shall not be necessary for the Director's consent to the adoption of the child to be evidenced by an instrument of consent.

20. Giving of consents. (1) Subject to this section a consent for the purposes of section nineteen of this Act shall be expressed as a consent to the adoption of the child by any person or persons whose application for an adoption order in respect of the child is approved by the Director, and every such consent shall be a valid consent notwithstanding that an application in respect of the adoption of the child has not been made or contemplated, or, if application has been so made, that the person giving the consent does not know the identity of the applicant or applicants.

(2) Where the applicant or (in the case of joint applicants) at least one of the applicants, is a relative of the child, a consent for the purposes of subsection (1) of this section may be a consent to the adoption of the child by the applicant or applicants only.

(3) Where a consent of the kind referred to in subsection (1) of this section has been relied on in an application for an adoption order, but the application has been refused by the Director, the consent remains in operation for the purposes of a further application for the adoption of the child.

21. Consents given under law of another State or of a Territory of the Commonwealth. Where—

(a) a person whose consent to the adoption of a child is required by section nineteen of this Act has, in accordance with the law of another State or of a Territory of the Commonwealth, duly signed an instrument of consent to the adoption of the child by any person approved by or on behalf of the officer empowered in that other State or in that Territory to approve persons as fit and proper persons to adopt children;

(b) that officer, or a person acting on his behalf, has, by writing under his hand, authorised the Director to make arrangements for the adoption of the child in Queensland; and

(c) the consent evidenced by the instrument of consent has not been revoked in accordance with the law of that other State or of that Territory,

that instrument of consent shall, for the purposes of this Act, be deemed to be an instrument executed in accordance with this Division evidencing a subsisting consent, in accordance with subsection (1) of section nineteen of this Act, to the adoption of the child.

22. Revocation of consents. (1) A consent to the adoption of a child given for the purposes of this Act or the repealed Acts by a person other than the child may be revoked by notice in writing served on the Director before—

(a) the expiration of thirty days from the date on which the instrument of consent was signed; or

(b) the day on which an order for the adoption of the child is made, whichever is the earlier, but may not otherwise be revoked.

(2) Service of a notice on the Director under subsection (1) of this section shall be effected by delivering it to him personally or by sending it to him by registered post at such address as is prescribed.

23. Form of consents. (1) Subject to this section, a consent for the purposes of the preceding provisions of this Division shall be evidenced by an instrument of consent substantially in accordance with the prescribed form signed by the person giving the consent and attested as prescribed.

(2) A consent referred to in subsection (2) of section twenty of this Act has no force or effect unless it is attested by the Director or a person authorised in writing by the Director to attest that consent or generally to attest such consents.

24. Defective consents. (1) The Director shall not make an adoption order in reliance on a consent given or purporting to have been given by a person (other than the child) if it appears to the Director that—

- (a) the consent was not given in accordance with this Act, or (where applicable) the repealed Acts;
- (b) the consent was obtained by fraud, duress, or other improper means;
- (c) the consent was revoked at a time when it had not become irrevocable;
- (d) the instrument of consent has been altered in a material particular without authority;
- (e) the person giving or purporting to give the consent was not, on the date of the instrument of consent, in a fit condition to give the consent or did not understand the nature of the consent; or
- (f) in the case of the consent of a mother to the adoption of her child, the instrument of consent was signed before the birth of the child.

(2) The Director shall not make an adoption order in reliance on an instrument of consent signed by the mother of the child within five days after the birth of the child unless he is satisfied, on the certificate of a legally qualified medical practitioner or on other adequate evidence, that, at the time the instrument was signed, the mother was in a fit condition to give the consent.

(3) For the purposes of subsection (2) of this section, the Director, if satisfied that no legally qualified medical practitioner was readily available to certify as aforesaid, may be satisfied as to the fit condition of the mother to give the consent as required by that subsection upon the production to him of a Certificate of a person registered as a nurse under "*The Nurses Act of 1964*," certifying that, at the time when the instrument of consent was signed by the mother of the child, the mother was in a fit condition to give the consent.

25. Court may dispense with consents. (1) The Supreme Court may, on the application of the Director, by order, dispense with the consent of a person (other than the child) to the adoption of a child where the Court is satisfied—

- (a) that the person cannot, after reasonable inquiry, be found; or
- (b) that the person is in such a physical or mental condition as not to be capable of properly considering the question whether he should give his consent; or
- (c) that the person has abandoned, deserted or persistently neglected or ill-treated the child; or
- (d) that the person has, for a period of not less than one year, failed, without reasonable cause, to discharge the obligations of a parent or guardian, as the case may be, of the child; or
- (e) that there are any other special circumstances by reason of which the consent may properly be dispensed with.

(2) In order to facilitate the making of arrangements by the Director with a view to the adoption of a child, the Court may, on the application of the Director, make an order under this section dispensing with the consent of a person whose consent is required to the adoption of the child before an application for an adoption order has been made in respect of the child, and any such order under this section has effect for the purposes of any adoption order that may subsequently be made under this Act.

(3) An order made by virtue of subsection (2) of this section may, on the application of the Director, or of the person whose consent was dispensed with, be revoked by the Court at any time before the making of an adoption order in respect of the child.

26. Consent of child. Subject to this Division, an order for the adoption of a child who has attained the age of twelve years shall not be made unless the child has consented to the adoption:

Provided that the Court may, on the application of the Director, where the Court is satisfied that there are special reasons, related to the welfare and interests of the child, why an order of adoption of the child should be made, notwithstanding that the child has refused to consent to the adoption or that his consent has not been sought, by order, dispense with the consent of the child.

27. Guardianship of child awaiting adoption. (1) Where every person whose consent to the adoption of a child is required under section nineteen of this Act has consented to the adoption of the child or his consent has been dispensed with under this Act, the Director shall be the guardian of the child for all purposes (other than the purposes of section nineteen of this Act) to the exclusion of all other persons until—

- (a) an adoption order is made in respect of the child;
- (b) in the case of any consent so given, the instrument of consent is lawfully revoked; or
- (c) a Court of competent jurisdiction, by order, makes other provision for the guardianship of the child.

(2) Subsection (1) of this section does not apply to a child for whose guardianship provision is made by "*The State Children Acts, 1911 to 1955.*"

Division 4—Effect of Adoption Orders

28. General effect of adoption orders. (1) For the purposes of the laws of Queensland but subject to this Act and to the provisions of any other Act that expressly distinguishes in any way between adopted children and children other than adopted children, upon the making of an adoption order—

- (a) the adopted child becomes a child of the adopter or adopters, and the adopter or adopters become the parent or parents of the child, as if the child had been born to the adopter or adopters in lawful wedlock;
- (b) the adopted child ceases to be a child of any person who was a parent (whether natural or adoptive) of the child before the making of the adoption order, and any such person ceases to be a parent of the child;

- (c) the relationship to one another of all persons (including the adopted child and an adoptive parent or former parent of the adopted child) shall be determined on the basis of the foregoing provisions of this subsection so far as they are relevant;
- (d) any guardianship of the adopted child ceases to have effect; and
- (e) any previous adoption of the child (whether effected under the law of Queensland or otherwise) ceases to have effect.

(2) Notwithstanding subsection (1) of this section, for the purposes of any law relating to a sexual offence, being a law for the purposes of which the relationship between persons is relevant, an adoption order, or the discharge of an adoption order, does not cause the cessation of any relationship that would have existed if the adoption order, or the discharging order, as the case may be, had not been made, and any such relationship shall be deemed to exist in addition to any relationship that exists by virtue of the application of that subsection in relation to that adoption order or by virtue of the discharge of that adoption order.

29. Effect of orders as regards dispositions of property, &c. (1) The provisions of subsection (1) of section twenty-eight of this Act have effect in relation to dispositions of property whether by will or otherwise, and whether made before or after the commencement of this Act, except that—

- (a) those provisions do not affect a disposition of property by a person who, or by persons any of whom, died before the commencement of this Act; and
- (b) those provisions do not affect a disposition of property that has taken effect in possession before the commencement of this Act.

(2) The provisions of subsection (1) of section twenty-eight of this Act do not apply in relation to an agreement or instrument (not being a disposition of property) made or executed before the commencement of this Act.

(3) Where—

- (a) before the commencement of this Act, a person made, by an instrument other than a will, a disposition of property;
- (b) the disposition had not taken effect in possession before the commencement of this Act; and
- (c) it did not appear from the instrument that it was the intention of that person to include adopted children as objects of the disposition,

that person may, notwithstanding that the instrument could not, apart from this subsection, be revoked or varied, by a like instrument vary the first-mentioned instrument to exclude adopted children (whether adopted under this Act or otherwise) from participation in any right, benefit or privilege under the instrument.

(4) In relation to a disposition of property by a person who, or by persons any of whom, died before the commencement of this Act, an adoption order made under this Act has effect as if the repealed Acts had not been repealed and the adoption order had been made under the repealed Acts.

(5) Nothing in section twenty-eight of this Act or in this section affects the operation of any provision in a will or other instrument (whether made or coming into operation before or after the commencement of this Act) distinguishing between adopted children and children other than adopted children.

30. Names of adopted child. (1) Subject to subsection (2) of this section, upon the making of an adoption order, the adopted child shall have as his surname the surname of the adopter or adopters and shall have as his first name or christian name or names such name or names as the Director, in the adoption order, approves on the application of the adopter or adopters.

(2) Where, before the making of the adoption order, the adopted child has been generally known by a particular surname, the Director may, in the adoption order, order that the child shall have that name as his surname.

(3) Nothing in this section prevents the changing of any name of an adopted child, after the making of the adoption order, in accordance with any other Act or law.

31. Effect of order on domicile. (1) Subject to this section, upon the making of an adoption order, the adopted child acquires the domicile of the adopter or adopters at the date of the adoption order and the child's domicile thereafter shall be determined as if the child had been born in lawful wedlock to that adopter or those adopters.

(2) The domicile acquired, upon the making of the order, by the child under subsection (1) of this section shall be deemed to be also the child's domicile of origin.

32. Adoption order not to affect the distribution of property by trustees or personal representatives unless notice given. (1) Notwithstanding any other provision of this Act, trustees or personal representatives may, subject to this section, convey, transfer or distribute real or personal property to or among the persons appearing to be entitled to the property without having ascertained whether or not an adoption has been effected by virtue of which a person is or is not entitled to an interest in the property.

(2) A trustee or personal representative conveying, transferring or distributing real or personal property in the manner referred to in subsection (1) of this section shall not be liable to a person claiming directly or indirectly by virtue of an adoption unless the trustee or personal representative has notice of the claim before the time of the conveyance, transfer or distribution.

(3) Nothing in this section prejudices the right of a person to follow property into the hands of a person, other than a purchaser for value, who has received it.

Division 5—Interim Orders

33. Making of interim orders. (1) Upon an application for an order for the adoption of a child, the Director may postpone the determination of the application and make an interim order for the custody of the child in favour of the applicants.

(2) An interim order may be subject to such terms and conditions relating to the maintenance, education and welfare of the child as the Director thinks fit.

(3) The Director shall not make an interim order in respect of a child in favour of any persons unless he could lawfully make an order for the adoption of that child by those persons.

(4) While an interim order remains in force in respect of a child, the persons in whose favour the order is made are entitled to the care and custody of the child.

34. Duration of interim orders. (1) Subject to this Division, an interim order remains in force for such period, not exceeding one year, as the Director specifies in the order and for such further periods, if any, as the Director may from time to time order.

(2) An interim order shall not be in force for periods exceeding in the aggregate two years.

35. Discharge of interim orders. (1) The Director may, at any time, make an order discharging an interim order made under this Division or under the repealed Acts, and, if the child was, at the time of the making of the interim order, a "State Child" within the meaning of "*The State Children Acts, 1911 to 1955*," and is at the time of discharge of the interim order, under the age of eighteen years, the child shall be a "State Child," within the meaning of the lastmentioned Acts.

(2) An interim order, whether under this Act or the repealed Acts, ceases to have effect upon the making of an order for the adoption of that child, whether made in Queensland or in another State or in a Territory of the Commonwealth.

PART IV—RECOGNITION OF ADOPTIONS

36. Definition. In this Part, "country" includes a part of a country.

37. Recognition of Australian adoptions. For the purposes of the laws of Queensland, the adoption of a person (whether before or after the commencement of this Act) in another State or a Territory of the Commonwealth, in accordance with the law of that State or Territory has, so long as it has not been rescinded under the law in force in that State or Territory, the same effect as an adoption order made in Queensland under this Act, and has no other effect.

38. Recognition of foreign adoptions. (1) For the purposes of the laws of Queensland, the adoption of a person (whether before or after the commencement of this Act) in a country outside the Commonwealth and the Territories of the Commonwealth, being an adoption to which this section applies, has, so long as it has not been rescinded under the law of that country, the same effect as an adoption order under this Act.

(2) This section applies to an adoption in a country if—

- (a) the adoption was effective according to the law of that country;
- (b) at the time at which the legal steps that resulted in the adoption were commenced, the adopter, or each of the adopters, was resident or domiciled in that country;
- (c) in consequence of the adoption, the adopter or adopters had, or would (if the adopted person had been a young child) have had, immediately following the adoption, according to the law of that country, a right superior to that of any natural parent of the adopted person in respect of the custody of the adopted person; and

- (d) under the law of that country the adopter or adopters were, by the adoption, placed generally in relation to the adopted person in the position of a parent or parents.

(3) The Governor in Council may from time to time, by Order in Council declare that all or any adoptions under the law of a particular country outside the Commonwealth and the Territories of the Commonwealth and specified in the Order in Council shall be conclusively presumed to comply with the requirements of paragraphs (c) and (d) of subsection (2) of this section.

Whilst any such declaration as aforesaid is in force, effect shall be given thereto in accordance with the tenor thereof.

(4) Notwithstanding the foregoing provisions of this section, a court (including a Court dealing with an application under section thirty-nine of this Act) may refuse to recognise 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 connection with the adoption involved a denial of natural justice or did not comply with the requirements of substantial justice.

(5) Where, in any proceedings before a court (including proceedings under section thirty-nine of this Act), 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 subsection (2) of this section and has not been rescinded.

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

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

39. Declarations of validity of foreign adoptions. (1) A person specified in subsection (2) of this section may apply to the Supreme 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 outside the Commonwealth and the Territories of the Commonwealth, and that the adoption is one to which section thirty-eight of this Act 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 subsection (1) of this section in relation to an adoption are the adopted child, the adoptive parent or either or both of 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 under this section, the Court may—

- (a) direct that notice of the application be given to such persons (who may include the Attorney-General) as the Court thinks fit;
- (b) direct that a person be made a party to the application; or
- (c) permit a 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, 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.

(5) In the case of an application to the Court under subsection (1) of this section, the Court may make such orders as to costs and security for costs, whether by way of interlocutory order or otherwise, as the Court thinks just.

(6) For the purposes of the laws of Queensland, an order under this section binds the Crown in right of the State of Queensland, whether or not notice was given to the Attorney-General, but, except as provided in subsection (7) of this section, 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.

(7) In proceedings in a court in Queensland, being proceedings relating to the rights of a person other than a person referred to in subparagraph (i) or (ii) of paragraph (a) of subsection (6) of this section, the production of a copy of an order made under this section, certified by the Registrar of the Supreme 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 thirty-eight of this Act applies.

PART V—OFFENCES

40. Territorial application of Part. This Part does not apply in respect of acts occurring outside Queensland, but, unless otherwise expressly provided, does apply in respect of acts done in Queensland in relation to the adoption of children in, or children adopted in, another State or a Territory of the Commonwealth, or a country outside the Commonwealth and the Territories of the Commonwealth.

41. Taking away, &c., of adopted child by natural parent. 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 a 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.

Penalty: Two hundred pounds or imprisonment for six months.

42. Harboursing child taken from adopters. 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 forty-one of this Act.

Penalty: Two hundred pounds or imprisonment for six months.

43. Payments in consideration of adoptions, &c. (1) Subject to this section, a person shall not (whether before or after the birth of the child concerned) make, give or receive, or agree to make, give or receive, a payment or reward for or in consideration of—

- (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 making of arrangements with a view to the adoption of a child.

Penalty: Two hundred pounds or imprisonment for 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 proposed adoption under this Act—

- (a) a payment made by the adopter or adopters, with the approval in writing 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;
- (b) any other payment or reward authorised in writing by the Director.

(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.

44. Restrictions on advertising. (1) Subject to this section, a person shall not publish, or cause 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—

- (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.

Penalty: Two hundred pounds or imprisonment for six months.

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

45. Restrictions on publication of identity of parties. (1) Subject to this section, a person shall not publish, or cause to be published, in a newspaper or periodical, or by means of broadcasting or television, in relation to any application under this Act (whether to the Director or to the Court), or in relation to an application 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 aforementioned application, the name of the applicant, the child, the father or mother or a guardian of the child, or, where applicable, the name of an adopter of the child, or any matter reasonably likely to enable any of those persons to be identified.

Penalty: Two hundred pounds or imprisonment for six months.

(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.

46. Penalty for making unauthorised arrangements. (1) Subject to this section, a person shall not, unless he is a duly authorised officer, employee, or agent of the Director, conduct, or attempt to conduct, any negotiation, or make, or attempt to make, any arrangement with a parent or guardian of a child for or towards or with a view to the adoption of the child.

Penalty: Two hundred pounds or imprisonment for six months.

(2) Subsection (1) of this section shall not be taken to refer to or include the preparation of an application under this Act for the adoption of a child or any arrangements made by or on behalf of a parent, guardian or relative of a child for the adoption of the child by a relative of the child.

47. False statements. 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: Two hundred pounds or imprisonment for six months.

48. Personation. 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: Two hundred pounds or imprisonment for six months.

49. Presenting forged consent, &c. A person shall not present, or cause to be presented, to the Director 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: Two hundred pounds or imprisonment for six months.

50. Improperly witnessing consent to adoption. 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: Two hundred pounds or imprisonment for six months.

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

52. Summary proceedings. (1) All offences against this Act may be prosecuted in a summary way under "*The Justices Acts, 1886 to 1963.*"

(2) A prosecution for an offence against this Act may be instituted at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

53. General penalty. Any person who commits an offence against this Act for which no specific penalty is provided shall be liable to a penalty not exceeding two hundred pounds or to imprisonment for a term not exceeding six months.

PART VI—MISCELLANEOUS

54. Registration of orders. (1) The Director shall cause a memorandum, in accordance with the prescribed form, of every adoption order made under this Act to be sent to the Registrar-General.

(2) The Registrar of the Supreme Court shall cause a copy of every order made under this Act for the discharge of an adoption order to be sent to the Registrar-General.

(3) Upon receipt of a memorandum or copy of an order sent to him under the preceding provisions of this section, the Registrar-General shall—

- (a) register it, as prescribed, in the Adopted Children Register; and
- (b) if it relates to a child whose birth is registered in Queensland, make such alterations to, or entries in, the appropriate registers of births as are prescribed.

55. Adopted Children Register. The "Adopted Children Register" made and kept by the Registrar-General under the repealed Acts shall continue and shall be the Adopted Children Register under this Act.

56. Sending of memoranda of orders to other States and to Territories of the Commonwealth. Where under this Act an adoption order or an order for the discharge of an adoption order has been made, and the Registrar-General 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.

57. Particulars of orders received from other States. Where the Registrar-General receives, in relation to a child whose birth is registered in Queensland, 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 authorised 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 alterations to, or entries in, the appropriate registers of births as are prescribed.

58. Court hearings to be in camera. An application to the Court under this Act shall not be heard in open court and persons who are not parties to the proceedings or their counsel, solicitors or representatives shall, except as otherwise permitted by the court, be excluded during the hearing of the application.

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

60. Proof of adoptions. In any proceedings in any court in Queensland—

- (a) a document purporting to be either the original or a certified copy of or certified extract from an order effecting an adoption (whether in Queensland or elsewhere); or
- (b) a certified copy of an entry in any public official record of the adoption of children (whether kept in Queensland 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.

61. Judicial notice of signatures. 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 Director of the State Children Department;
- (b) the Deputy Director of the State Children Department,

and of any corresponding officer in another State or in a Territory of the Commonwealth, and of any delegate of such a person, 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.

62. Deputy Director. The fact that the Deputy Director of the State Children Department or a person for the time being performing the duties of the office of the Deputy Director of the State Children Department made an adoption order or exercised any power, authority or function, or performed any duty conferred by this Act or the repealed Acts on the Director of the State Children Department shall, until the contrary is proved, be sufficient evidence that the Deputy Director or such person so acted in accordance with subsection (2) of section 7A of “*The State Children Acts, 1911 to 1955.*”

63. Parties to applications to Court. (1) Where an application is made to the Court under section sixteen, twenty-five, or twenty-six of this Act, the Court may permit such persons as the Court thinks fit to be joined as parties to the proceedings for the purpose of opposing the application.

(2) Where the Court, pursuant to subsection (1) of this section, permits a person or persons other than the applicant to be joined as a party or parties to the proceedings referred to in that subsection, the Court may make such orders as to costs and security for costs, whether by way of interlocutory order or otherwise, as the Court thinks fit.

64. Rules of Court. (1) All such Rules of Court as may be deemed necessary or convenient for regulating the procedure and practice of the Supreme Court for the purpose of giving full effect to sections sixteen,

twenty-five, twenty-six and thirty-nine of this Act may be made, and the provisions of "*The Supreme Court Act of 1921*" and "*The Supreme Court Acts Amendment (Rules Ratification) Act of 1928*" shall apply and extend in respect of such Rules of Court.

(2) Pending the making of Rules of Court referred to in subsection (1) of this section, or where there is no rule or no sufficient rule applicable, a Judge may in respect of an application under section sixteen, twenty-five, twenty-six or thirty-nine of this Act, give such directions as he may deem necessary or convenient for the purposes of giving full effect to the provisions of this Act relative to the application and any steps taken in accordance with the directions given by the Judge shall be deemed to be regular and sufficient.

65. Regulations. (1) The Governor in Council may, from time to time, make such regulations, not inconsistent with this Act, prescribing all matters and things that are necessary or convenient for carrying out or giving effect to this Act, and without limiting the generality of the foregoing provisions of this subsection, in particular, making provision for or in relation to—

- (a) matters of practice, procedure or evidence in or in connection with proceedings under this Act;
- (b) matters of practice or procedure in or in connection with consents to be used for the purposes of this Act;
- (c) forms to be used under this Act and the respective purposes for which such forms or forms to the like effect shall be used;
- (d) fees payable in respect of proceedings under this Act;
- (e) the keeping of the Adoption List;
- (f) the prohibition or regulation of access to the Adopted Children Register;
- (g) the inspection of the records of any proceedings under this Act;
- (h) the furnishing of copies or certificates of, or extracts from, matters included in the Adopted Children Register;
- (i) the making, correction or cancellation of entries relating to adopted children in the registers of births kept under the law of Queensland;
- (j) penalties, not exceeding fifty pounds or imprisonment for three months, for offences against the regulations.

(2) Regulations may be made under this Act at any time after the passing hereof.

66. Publication of Proclamations, &c. (1) Every Proclamation, Order in Council and regulation made under this Act shall—

- (i) be published in the *Gazette*;
- (ii) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (iii) take effect from the date of such publication unless, in the case of any such regulation, a later date is specified in that or in any other regulation for its commencement when in such event it shall take effect from that later date; and
- (iv) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council or regulation has been laid before it disallowing such Proclamation, Order in Council or regulation or part thereof, that Proclamation, Order in Council or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council or regulation.

THE SCHEDULE

[Section 5 (1)]

Year and Number of Act	Short Title	Extent of Repeal
26 Geo. V. No. 7 ..	" <i>The Adoption of Children Act of 1935</i> "	The whole
5 Geo. VI. No. 7 ..	" <i>The Adoption of Children Act Amendment Act of 1941</i> "	The whole
1 Eliz. II. No. 3 ..	" <i>The State Children Acts and Another Act Amendment Act of 1952</i> "	Part III.