

# **ADOPTION OF CHILDREN AMENDMENT BILL 2002**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Objectives of the legislation**

To amend the *Adoption of Children Act 1964* to provide for more efficient and child focussed adoption application processes that reflect contemporary adoption practice.

To make minor technical amendments to the *Child Care Act 1991* and the *Child Protection Act 1999*.

#### **Reasons for the objectives and how they will be achieved**

The capacity of the Department of Families to provide efficient and relevant adoption services is constrained by outdated provisions in the *Adoption of Children Act 1964* that do not reflect the contemporary context regarding the adoption of children. All States, except Queensland, have proclaimed new adoption legislation to increase the focus of adoption service delivery on the needs of children requiring adoptive families and to reflect a contemporary context for adoption practices.

Since the 1960s there have been significant changes in demographics, social values and community views that impact on the provision of adoption services and which are not reflected in the State's adoption legislation. The government has therefore commenced a comprehensive review of the *Adoption of Children Act 1964*.

While the review is being conducted, a number of changes to the current Act have been identified as requiring urgent attention. The amendments in the Bill will assist in ensuring the objective of the Act to secure the best possible placements for children is achieved in the contemporary context and will promote greater efficiency and responsiveness in the delivery of adoption services. The Bill will operate until new adoption legislation is developed.

The *Adoption of Children Act 1964* enables persons wishing to adopt a child to lodge an application at any time and all applicants are entitled to have their names entered in the relevant adoption list. The Act requires four adoption applicant lists to be kept – the Special Needs Children’s Adoption List, the Foreign Children’s Adoption List, the Relative Children’s Adoption List and the General Children’s Adoption List. Applicants must meet minimum standards to be eligible to be on the lists. The Act requires that, generally, applicants be assessed for suitability as prospective adoptive parents in chronological order of their applications. This requirement would have been appropriate in 1964, when the legislation was enacted, as the number of children requiring an adoptive placement was much closer to and at times exceeded the number of people seeking to adopt a child.

In 2000/2001, 49 adoption orders were made in Queensland in relation to non-relative children. As at 30 June 2001, the number of applicants on the General Children's Adoption List (303) and those on the Foreign Children's Adoption List (471) far exceeded the number of children requiring adoptive placements in Queensland. Further, the Foreign Children's Adoption List is rapidly growing, and is disproportionate to the number of applications able to be managed in a timely manner by the department and overseas adoption authorities.

As a result of the legislative requirements and the rapidly growing lists, departmental resources are being diverted from providing timely and optimum support to children requiring adoptive placements and expended on the processing of new applications and the maintenance of applicant lists.

The current legislation is also unsatisfactory from the perspective of applicants whose applications are made in good faith that a child will be placed with them, because a child may never be placed with them due to the disproportionate number of adoptive placements required by children in Queensland.

The amendments will enable the department’s chief executive officer to manage adoption applicant lists to ensure that children requiring adoptive placements are provided with the best possible placement in the most efficient manner.

The amendments will establish an ‘expressions of interest’ register and an ‘assessment’ register to replace the current General Children’s Adoption List and the Foreign Children’s Adoption List. Transitional provisions in the Bill provide for all current applications on these two lists to be automatically transferred to the appropriate register, depending on whether

the applicants have been assessed or not at the time the amendments commence.

The amendments will enable the department to call for expressions of interest in being assessed as a prospective adoptive parent, when required to meet the anticipated placement needs of children. This will ensure that waiting lists do not continue to grow disproportionately to the anticipated placement needs of children and will, once current applicants have been processed, ensure the reduction in waiting times for persons seeking to be assessed as prospective adoptive parents.

The Bill removes the requirement for applicants to be assessed in chronological order. This will enable assessments to be prioritised in accordance with the needs of children requiring adoptive families and the flexibility needed to efficiently respond to the requirement of overseas adoption authorities, with which Queensland has arrangements. A transitional clause has been included in the Bill to reduce the impact on current applicants on the Foreign Children's Adoption List. Once current applications have been processed, date order of lodgement of expressions of interest will no longer be relevant as persons will be lodging expressions of interest at the same time in response to a call for expressions of interest.

The Bill also removes the requirement on the chief executive to match children born in Queensland who require adoptive families with applicants generally in date order of their application. The amendments replace this requirement with a list of matters related to the needs and interests of children to which the chief executive must have regard when making placement decisions for children born in Queensland.

The amendments to the *Adoption of Children Act 1964* reflect the legislative and administrative processes in operation in other States, which moderate entry to the adoption process. Specifically, adoption legislation in most other Australian States and Territories allow adoption applications to be accepted only when additional applicants are required to meet the adoptive placement needs of children. This avoids situations, such as in Queensland, where there are hundreds of people waiting on adoption applicant lists, with only a small number of children requiring adoptive placements and able to be placed in Queensland.

The Bill also contains minor, technical amendments to the *Child Care Act 1991* and the *Child Protection Act 1999* which had previously been identified for inclusion in the next Statute Law (Miscellaneous Provisions) Bill.

**Estimated costs for government implementation**

There will be some minor costs involved in establishing the new registers. These costs will be met internally by the Department of Families.

**Consultation**

Consultation has occurred with:

- the Commission for Children and Young People;
- Queensland Health;
- Disability Services Queensland;
- the Children Services Tribunal;
- the Office for Women, Department of the Premier and Cabinet; and
- the Department of Aboriginal and Torres Strait Islander Policy.

Consultation has also occurred with representatives of intercountry adoption support groups and their views have been taken into account in the drafting of the Bill. Broader community consultation has not occurred as the matters which are the subject of the Bill will be included in the public consultation process to be undertaken in 2002 as part of the comprehensive review of the *Adoption of Children Act 1964*.

**Consistency with fundamental legislative principles**

*Whether legislation has sufficient regard to rights and liberties of individuals, for example, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively. (Legislative Standards Act 1992, section 4(3)(g).)*

**Clause 6—Replacement of section 13A (Applications)**

Under the current legislation, persons wishing to adopt a child may apply at any time. Under the amended legislation, a person wishing to adopt a child (other than a child with special needs or a child who is a relative) will not be able to lodge a formal expression of interest except in response to a publicly advertised call for expressions of interest by the chief executive. Expressions of interest will only be called for when it is necessary to increase the number of persons on the register to meet the anticipated placement needs of children. The change is procedural and

merely regulates when expressions of interest may be lodged. It does not prevent any member of the community from seeking to adopt a child. For this reason, the amendment is not inconsistent with fundamental legislative principles.

Clause 7—Amendment of section 13B (Chief executive’s assessments)

Currently, section 13B(7) of the *Adoption of Children Act 1964* requires applicants on the General Children’s Adoption List, the Foreign Children’s Adoption List and the Relative Children’s Adoption List to be assessed generally in the chronological order in which their applications were received. The amendments will remove this requirement in relation to assessments of applicants on the General Children’s Adoption List and the Foreign Children’s Adoption List.

The purpose of this amendment is to enable the chief executive to consider all persons who have expressed interest in being assessed and to prioritise assessments in accordance with the needs of children requiring adoptive placements and the requirements of overseas adoption authorities, rather than solely on the basis of the date at which a person lodged their application. For example, it would enable the chief executive to search the register to prioritise for assessment persons of the same cultural background as children requiring adoptive families. Clause 6 of the Bill, which creates new section 13AF, sets out a range of matters the chief executive must have regard to when deciding the number of assessments to be done in each year. The criteria for assessments set out in the Regulation will remain the same.

A transitional provision (new section 72) has been included in the Bill to enable current applicants on the Foreign Children’s Adoption List who are transferred to the expression of interest register to continue to be assessed generally in chronological order. However, the transitional provision will allow greater flexibility in prioritising the order of assessments than is currently the case by enabling the chief executive to respond to information provided by overseas countries about the placement needs of children and their requirements for prospective adoptive parents. This will ensure that resources are not unnecessarily expended on assessing persons who will not meet the requirements of the overseas countries and will ensure greater responsiveness to the needs of children in overseas countries as communicated by the overseas adoption authority.

This transitional provision does not apply to persons currently on the General Children’s Adoption List who will also automatically transfer to the new registers. This is because the very small number of children born

in Queensland who require adoptive placements and the large numbers of persons on this List would mean that the substantive provisions would not be able to come into force for many years. It is imperative at this point in time that the department has the flexibility to progress the applications of persons on this list who have the most potential to provide the best possible adoptive placements for children rather than being constrained by a requirement to assess them in chronological order.

Whilst this may impact negatively on a small number of current applicants, it is considered justifiable in order to further the objective of the Act in section 5A to “facilitate securing for children who are available for adoption the best possible placements...” and to ensure the application of the principle, contained in section 10 of the Act, that “the welfare and interests of the child concerned shall be regarded as the paramount consideration”.

*Clause 16—Amendment of section 18 (General Children’s Adoption List to be ordinarily observed)*

Section 18 of the Act sets out the matters the chief executive must have regard to when deciding which prospective adoptive parents (that is, which favourably assessed applicants) the chief executive will approve for the adoption of an individual child in Queensland for whom a general consent has been given. For making placement decisions for children in Queensland, under section 18, the chief executive officer is currently required to have regard to the order of the names of applicants in the General Children’s Adoption List.

As with the amendment to section 13B(7) mentioned above, this amendment removes the requirement to have regard to the chronological order and replaces it with a range of factors specifically relevant to the welfare and interests of individual children when deciding the best possible adoptive placements for local children. These factors are based on knowledge of adoption outcomes and disruption factors identified through research in this area. They cannot be prescriptive, however, as the specific needs of individual children regarding their welfare and best interests can vary greatly.

The purpose of this amendment is, again, to further the objective of the Act to secure the best possible placements for children.

*Clause 20—new section 74*

The Bill includes a transitional provision to explicitly extinguish any expectation that applicants may have under the current Act that they will be

assessed and have a child placed with them in accordance with their chronological order on the list. This provision has been included as a result of the Supreme Court decision in *Tyler v Tullipan and Ors [2001] QSC*, where it was held that a right or privilege accruing to a prisoner in relation to eligibility for home detention under the *Corrective Services Act 1988* continued after the commencement of the *Corrective Services Act 2000* (which provided for different arrangements for the release of prisoners) because that Act did not contain a provision which explicitly extinguished that right or privilege. The potential application of this decision to all new legislation which alters or affects individual's rights, entitlements or expectations requires, as a matter of caution, an explicit statement in this Bill that it is the intention of Parliament to do so.

If a right or expectation under the current Act to be assessed or matched with a child in accordance with the applicant's chronological order on a list exists, any argument for the preservation of this right or expectation must be balanced, in the contemporary context, against the legislative obligation to ensure for children the best possible adoptive placements.

*Whether legislation has sufficient regard to rights and liberties of individuals, for example, the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review. (Legislative Standards Act 1992, section 4(3)(a).)*

Clause 16—Amendment of section 18 (General Children's Adoption List to be ordinarily observed)

The principle of appropriate review of the exercise of administrative power, embodied in the *Legislative Standards Act 1992*, cannot be appropriately applied to decisions of the chief executive under section 18 about which prospective adoptive parents would provide the best placement for an individual child.

The exercise of review rights depends on the provision of advice about the decision and the reasons for the decision to persons with standing to seek review of the decision. It would be inappropriate to advise all prospective adoptive parents of a decision to match an individual child with particular prospective adoptive parents and the reasons for that decision. Such advice would involve disclosing personal information about the child, the birth parents and the adoptive parents and would contravene their rights to privacy and breach the confidentiality provisions of the Act. Further, the provision of review rights to other prospective adoptive parents in respect of a decision of the chief executive to place a child with specific adoptive

parents would inappropriately delay the making of the adoption order itself. This would result in the child remaining in pre-adoptive foster care and being denied a permanent legal family while the matter is litigated. It is not in children's interests for such delays to occur, and would therefore be contrary to the objective of the Act, which stipulates that the best interests of children are the paramount consideration.

The issue of how placement decisions should be made and accountability for those decisions will be the subject of consideration during the review of the *Adoption of Children Act 1964*.

## NOTES ON CLAUSES

### PART 1—PRELIMINARY

*Clause 1* sets out the short title of the Act.

*Clause 2* provides for part 2 and schedule 1 of the Act to commence on a day to be fixed by proclamation. Part 3 and the schedule 2 which deal with minor technical amendments to the *Child Care Act 1991* and the *Child Protection Act 1999* will commence on Assent. Proclamation of part 2 and schedule 1 will occur simultaneously with the making of consequential amendments to the *Adoption of Children Regulation 1999* after passage of the Act.

### PART 2—AMENDMENT OF ADOPTION OF CHILDREN ACT 1964

*Clause 3* provides for the amendment of the *Adoption of Children Act 1964* by this part and schedule 1.

*Clause 4* amends section 6 by changing the definition of "adoption list", omitting the definition of "Commonwealth", because it is now defined in the *Acts Interpretation Act 1954*, and by providing definitions for new terms included in the Act.



*Clause 5* makes a consequential amendment to section 7. As a result of the establishment of the expression of interest process, references throughout the *Adoption of Children Act 1964* to an “application” need to be amended to either remove the reference if it is not necessary for the substantive purpose of the section or to include a reference to an expression of interest. In this provision, reference to “application” is removed, as it is not necessary for the provision.

*Clause 6* omits section 13A. It inserts a new division heading and new sections 13A, 13AA, 13AB, 13AC, 13AD, 13AE and 13AF.

Current section 13A sets out how a person who wishes to adopt a child should make an application and provides that a person who makes an application is entitled to have their name entered in the adoption list appropriate to their application. It also requires the person’s name to be removed from the adoption list if the person proves to be ineligible as prescribed or failed to comply with prescribed procedural requirements.

New section 13A describes some of the purposes of the division. These purposes include providing a process for persons whose names would be included in an adoption list to adopt children, a process for persons to express interest in being assessed as prospective adoptive parents and processes for assessing the suitability of persons on an adoption list or a register to become prospective adoptive parents and for deciding about placements for children.

New section 13AA sets out the application process for persons wishing to adopt a special needs child or a child who is a relative of the person and to have their names entered on the Special Needs Children’s Adoption List and the Relative Children’s Adoption List. The provision replicates the current process as set out in current section 13A and remains unchanged for these persons. Requirements for the giving of notice to persons whose names are removed from the relevant adoption list have been increased to comply with contemporary requirements for the giving of notice to persons about reviewable decisions.

New section 13AB provides a process for the chief executive to invite persons to express interest in being assessed as prospective adoptive parents when the chief executive considers it necessary to increase the number of persons on the expression of interest register in order to meet the placement needs of children requiring adoptive families,. This provides a new process for persons who, under the current section 13A, would have applied to have their names entered on the General Children’s Adoption List or the Foreign Children’s Adoption List.

New section 13AC entitles a person who makes an expression of interest in accordance with the previous section to have their name entered on the expression of interest register. As with the current section 13A, this new section requires the chief executive to remove a person's name from the expression of interest register if the person is ineligible as prescribed under a regulation or does not comply with a requirement prescribed under a regulation. The eligibility criteria, contained in the *Adoption of Children Regulation 1999*, will continue to apply to persons whose names are on the expression of interest register. Notice requirements for a decision to remove a person's name from the expression of interest register are also set out in the section and mirror the requirements in new section 13AA.

New section 13AD sets out the information the chief executive must give each person who expresses interest in being assessed as suitable to be a prospective adopter.

New section 13AE replicates the provisions of current section 13B relating to the requirements on the chief executive in relation to the timing of assessments of applicants whose names are entered on the Special Needs Children's Adoption List and the Relative Children's Adoption List.

New section 13AF sets out the matters the chief executive must have regard to for determining the number of persons the chief executive must assess in a financial year in order to meet the anticipated placement needs of children to which the expression of interest register relates in that period.

*Clause 7* makes amendments to section 13B to remove the general requirement to assess persons, other than persons on the Relative Children's Adoption List, in the chronological order in which they applied. It also makes amendments that are consequential to the amendments to section 17 establishing the expression of interest register. It mirrors the requirements in relation to assessments contained in the current section 13B (other than the general requirement to assess applicants in chronological order) and applies those requirements to assessments of persons whose names are included in the expression of interest register.

*Clause 8* amends section 13C to require the chief executive, when making an assessment under section 13B, to have regard to the matters mentioned in section 12 (which sets out certain requirements for persons in whose favour adoption orders can be made) and section 13 (which sets out the age requirements for adopters) as well as the matters prescribed under a regulation. The assessment criteria set out in the *Adoption of Children Regulation 1999* remains unchanged. It also makes a consequential amendment to section 13C as a result of amendments to section 17 establishing the expression of interest register and the assessment register.

*Clause 9* replaces section 13D. The changes are consequential to the establishment of the expression of interest register and the assessment register. The new section 13D describes persons in relation to whom a favourable assessment has been made as “prospective adopters”. It requires the chief executive to make a notation on the relevant adoption list if the person favourably assessed is on an adoption list (as with the old section 13D) and, if the person favourably assessed is on the expression of interest register, to transfer their name to the assessment register. The clause also inserts new section 13E which enables a person’s name to be removed from the assessment register if, at any time, the person becomes ineligible as prescribed under a regulation to remain on the register or the person does not comply with a prescribed requirement. New section 13E mirrors the current requirements about persons’ continued eligibility to adopt a child contained in current section 13A.

*Clause 10* makes consequential amendments to section 14.

*Clause 11* makes consequential amendments to section 14B, which requires applicants and prospective adopters to disclose their criminal histories if requested by the chief executive. It inserts an additional requirement for the chief executive to destroy a person’s criminal history if the chief executive considers it is no longer necessary to hold the record for the purposes of the Act. It should be noted that section 59(4) of the Act protects this information from unauthorised disclosure.

*Clause 12* makes consequential amendments to section 14C.

*Clause 13* makes consequential amendments to section 14D. It clarifies that removal of a person’s name from the expression of interest register under new section 13D(4) where the person has been favourably assessed and his or her name has been entered on the assessment register is not a reviewable decision.

*Clause 14* replaces the heading of part 3, division 2 to include a reference to the expression of interest register and the assessment register.

*Clause 15* amends section 17. It replaces the heading with a new heading that includes a reference to the expression of interest register and the assessment register. It replaces section 17(1) with a new subsection which requires the chief executive to keep lists of persons entitled to have their names entered on an adoption list and registers of persons entitled to have their names entered on the expression of interest register or the assessment register. Section 17(2) is amended to require adoption lists to be kept for applicants to become adoptive parents of special needs children and applicants to become adoptive parents of children who are relatives.

Section 17(3) is omitted and a new subsection inserted. The new subsection requires, for children other than special needs children or relative children, an expression of interest register and an assessment register to be kept. The effect of the amended section 17(2) and the new sections 17(3) and 17(7) is to replace the Foreign Children's Adoption List and the General Children's Adoption List with the expression of interest register and the assessment register. Section 17(6) is replaced by new subsections (5) and (6) to include references to the new registers. The effect of this subsection, which enables the transfer of adoption applications from another State or Territory to Queensland, remains the same.

*Clause 16* amends section 18 by replacing the heading, omitting paragraphs (a) and (b) and inserting a list of matters the chief executive must have regard to when making arrangements for the adoption of a child for whom a general consent has been given or dispensed with and who is not a special needs child. Section 18 currently only applies to children to whom the General Children's Adoption List relates. The amendment does not change this. It removes the requirement to generally have regard to the chronological order of prospective adoptive parents and replaces it with a more detailed list of matters, relating to the needs and interests of children, which the chief executive must have regard to when matching a particular child with prospective adoptive parents.

*Clause 17* inserts a new section 18AA to include expressions of interest within the definition of 'application'. This ensures division 2A applies to expressions of interest as well as applications.

*Clause 18* omits section 62 which provides that the making of an adoption order or the exercise of any power, authority or function conferred on the Director under the Act by the Deputy Director is sufficient evidence that the Deputy Director acted in accordance with section 12 of the *Children's Services Act 1965*, unless the contrary is proved. This section is anachronistic and is no longer required. Section 12 of the *Children's Services Act 1965* was repealed in 1987 and replaced by the delegations provision of the *Family Services Act 1987* (section 6). The *Public Service Act 1996* also contains a similar delegations provision. Consequently, section 62 no longer has any application.

*Clause 19* makes a consequential amendment to section 65 to enable equivalent regulations to be made in relation to the expression of interest register and the assessment register as with the adoption lists. This will enable amendments to the *Adoption of Children Regulation 1999* to ensure that the current eligibility and assessment criteria and other requirements

contained in the Regulation will apply to persons on the expression of interest register and the assessment register.

*Clause 20* inserts a new division 3 into part 7 of the Act to provide for transitional arrangements. New section 70 sets out definitions for division 3. New section 71 provides for:

- applications by persons to have their names entered on an adoption list to be treated either as applications under new section 13AA to have their names entered on the Relative Children's Adoption List or the Special Needs Children Adoption List or as expressions of interest;
- the automatic transfer of the names of persons on the Foreign Children's Adoption List and the General Children's Adoption List immediately before commencement of the Act, but whose assessment had not begun, from the lists to the expression of interest register;
- the continuation of assessments begun but not yet completed and the automatic transfer of the names of persons on the Foreign Children's Adoption List and the General Children's Adoption List whose assessments have commenced to the expression of interest register;
- the automatic transfer of the names of persons on the Foreign Children's Adoption List and the General Children's Adoption List whose assessments have been deferred to the expression of interest register;
- the automatic transfer of the names of persons on the Foreign Children's Adoption List and the General Children's Adoption List to the assessment register if a favourable assessment has been made about the persons; and
- the names of persons on the Special Needs Children's Adoption List and the Relative Children's Adoption List immediately before commencement to continue to be on those lists.

New section 72 is a transitional provision relating to the assessment of persons on the Foreign Children's Adoption List at the time of commencement and whose information is transferred to the expression of interest register under new section 71(3). These persons are called "prior applicants" in the section.

Subsection (2)(a) provides that the chief executive must assess only prior applicants until each of them has been removed from the expression of

interest register. However, subsection (3) enables the chief executive to assess persons on the expression of interest register other than prior applicants in order to respond to the criteria of the overseas countries. For example, if the situation arises where there are no prior applicants who wish to adopt a child from an overseas country with which Queensland has an agreement to provide files of suitable prospective adoptive parents, expressions of interest would be invited from persons interested in being assessed as suitable to be prospective adopters for a child from that country. Subsection (3) would enable the chief executive to assess persons who express interest in response to that invitation.

Subsection (2)(b) replicates the requirement in current section 13B(7) to generally assess those persons in the order in which their names were included in the List. However, subsection (4) enables the chief executive to depart from the chronological order for assessments of prior applicants in certain circumstances. These circumstances are:

- When a prior applicant who is due to be assessed agrees to postpone his or her assessment. This exception replicates a current exception to the chronological order requirement in current section 13B(7). This means that where a prior applicant does not wish to proceed with his or her assessment at the particular time when they are due to be assessed, the chief executive may continue to assess other prior applicants.
- When the chief executive considers it necessary to respond to the placement needs of children in an overseas country because of the welfare and interests of children of that country. Again, this replicates a current exception to the chronological order requirement in current section 13B(7).
- When the chief executive considers it necessary in order to respond to the placement needs of children in an overseas country because of information provided by the other country about the numbers and characteristics of prospective adopters required by the country. For example, an overseas country may advise that they will only place children with prospective adoptive parents who are under a certain age, or are infertile, or practice a particular religion or are of the same cultural background as children from that country or have achieved a certain educational level. An overseas country may also advise that it requires a specific number of prospective adoptive parents' files to be forwarded for consideration by that country.

New section 73 is a transitional provision for applications for review of decisions or assessments under section 14D of the *Adoption of Children Act 1964*. The provision continues a person's entitlement to apply for review, if the person was entitled to do so immediately before commencement. It provides for the tribunal to continue to deal with applications for review made before commencement as if the amendment Act had not commenced. It also applies new section 71 where, as a result of an application for review made before commencement, the person's name is not to be removed from the list or a favourable assessment of the person is made.

New section 74 extinguishes any expectation a person may have had in relation to the chief executive assessing persons under 13B(1) or in relation to the chief executive assessing persons in the order in which the names are included on the Foreign Children's Adoption List or the General Children's Adoption List, as mentioned in section 13B(7). It also extinguishes any expectation a person may have had in relation to the chief executive having regard to the order of the General Children's Adoption List when determining which prospective adopters the chief executive will approve in making arrangements with a view to the adoption of a child. The purpose of this provision is outlined above under the heading 'Consistency with fundamental legislative principles'. The Department considered the provisions of the Act and did not identify any further existing expectations that will be affected by the amending Act other than those dealt with in new sections 71, 72 and 73.

New section 75 continues the entitlement of the chief executive to request the disclosure of criminal histories from persons whose names are entered on the registers or lists.

### **PART 3—AMENDMENT OF OTHER ACTS**

*Clause 21* provides for the amendment of other Acts as mentioned in schedule 2.

**SCHEDULE 1****CONSEQUENTIAL AMENDMENTS OF ADOPTION OF  
CHILDREN ACT 1964**

Schedule 1 makes amendments to sections 16(3), 20(1), 20(3), 25(1), 25(2), 25(2A), 27B(3), 45(1), 46(2), 49, and 59A. These amendments are minor and make changes consequential to the establishment of the expression of interest register and the assessment register.

**SCHEDULE 2****AMENDMENT OF OTHER ACTS****CHILD CARE ACT 1991**

The amendments to the *Child Care Act 1991* are minor amendments to reflect current drafting practice in relation to “approved forms”.

*Clause 1* adds a new definition to the Act, which provides that a reference to an “approved form” in the Act means a form approved by the chief executive under section 82B.

*Clauses 2, 3 and 4* change the terminology of the Act to reflect the new definition of “approved form”.

*Clause 5* inserts a new section 82B, which provides that the chief executive may approve forms for the Act.



*Clause 6* inserts a new section 89, which provides that the chief executive's purported approval of a form for section 73G before the commencement of this section is valid and a consent given on the form is as valid as if it had been given on a form approved under section 82B. The footnote to this amendment provides how on 9 February 2001, Form 18 (Consent to Criminal History Check, Independent Home-Based Care) purportedly was approved under the *Child Care Act 1991*, section 73G, and notice of the approval appeared in the gazette at page 506 on this day.

## **CHILD PROTECTION ACT 1999**

*Clause 1* makes an amendment to correct a minor drafting error.