



*Adoption Act 2009*

# **Adoption Regulation 2009**

**Current as at 18 November 2016**





Queensland

# Adoption Regulation 2009

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# Adoption Regulation 2009

## Part 1 Preliminary

### 1 Short title

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

### 2 Commencement

This regulation commences on 1 February 2010.

### 3 Dictionary

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

## Part 2 Requirements for expressing an interest

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

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

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

- (1) The person must demonstrate that the person is aware it is ordinarily in a child's best interests to receive full-time care—
  - (a) provided personally by—
    - (i) the person with whom the child is placed; or

[s 6]

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- (ii) if the child is placed with a person and the person's spouse—the person or spouse; and
  - (b) for at least 1 year after the child is placed in the care of a person mentioned in paragraph (a).
- (2) The person must provide details to the chief executive of the person's proposed, or expected, care arrangements for a child for at least the first year of the child's placement with the person.

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

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



[s 9]

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

*Examples—*

a marriage certificate, deed poll or change of name certificate

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

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

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

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



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

*Note—*

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

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

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

## **Part 5 Miscellaneous**

**12 Fees**

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

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

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

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

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

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

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

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

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

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- (2) At the time a prescribed person mentioned in subsection (1)(a), (b) or (c), with authorisation from the chief executive, makes an application to the registrar under the *Births, Deaths and Marriages Registration Act 2003*, section 44, the person must produce—
- (a) prescribed identity documents stated in section 8; and
  - (b) if requested by the registrar, photographic identification; and
  - (c) the person's instrument of appointment demonstrating the document sought is required under the person's appointment.
- (3) An instrument of appointment produced for subsection (2)(c) must either be written in English or accompanied by a certified translation of the original instrument of appointment.
- (4) At the time a prescribed person mentioned in subsection (1)(d), with authorisation from the chief executive, makes an application to the registrar under the *Births, Deaths and Marriages Registration Act 2003*, section 44, the person must produce the prescribed identity documents stated in section 8.
- (5) In this section—
- applicable person*** means—
- (a) a person who has been given information under part 11, division 2 or 3 of the Act about another person; or
  - (b) a birth parent of an adopted person.

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

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

## **Schedule 1      Prescribed identity documents**

section 8(2)(a)

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

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

## **Schedule 2      Fees**

section 12

### **Part 1                      Application fee**

		\$
1	Application fee under section 93(c) of the Act for a person to apply to adopt a stated child under section 92 of the Act	78.35

### **Part 2                      Assessment fee**

		\$
2	Assessment fee under section 112 of the Act—	
	(a) for a person who is assessed under section 105 of the Act where the chief executive's selection is based on anticipated local adoption placement needs under section 88 of the Act	636.70
	(b) for a person who is assessed under section 105 of the Act where the chief executive's selection is based on anticipated intercountry adoption placement needs under section 88 of the Act	4573.25
	(c) for a person who is assessed under section 106 of the Act where the chief executive's selection is based on anticipated placement needs of a child under section 89 of the Act	nil

	\$
(d) for a person who is assessed under section 107 of the Act, having made an application under part 5 of the Act for the adoption of the person's stepchild	588.00

### **Part 3                      Supervision fee**

	\$
3    Supervision fee under section 198(3) or 298(3) of the Act	1960.00

## Schedule 3 Dictionary

### section 3

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

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

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

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

***qualified witness*** means—

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

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



## 1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

## 2 Key

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

Key	Explanation	Key	Explanation
<b>AIA</b>	= <b>Acts Interpretation Act 1954</b>	<b>(prev)</b>	= <b>previously</b>
<b>amd</b>	= <b>amended</b>	<b>proc</b>	= <b>proclamation</b>
<b>amd</b>	= <b>amendment</b>	<b>prov</b>	= <b>provision</b>
<b>t</b>			
<b>ch</b>	= <b>chapter</b>	<b>pt</b>	= <b>part</b>
<b>def</b>	= <b>definition</b>	<b>pubd</b>	= <b>published</b>
<b>div</b>	= <b>division</b>	<b>R[X]</b>	= <b>Reprint No. [X]</b>
<b>exp</b>	= <b>expires/expired</b>	<b>RA</b>	= <b>Reprints Act 1992</b>
<b>gaz</b>	= <b>gazette</b>	<b>reloc</b>	= <b>relocated</b>
<b>hdg</b>	= <b>heading</b>	<b>renu</b>	= <b>renumbered</b>
		<b>m</b>	
<b>ins</b>	= <b>inserted</b>	<b>rep</b>	= <b>repealed</b>
<b>lap</b>	= <b>lapsed</b>	<b>(retro</b>	= <b>retrospectively</b>
		<b>)</b>	
<b>notf</b>	= <b>notified</b>	<b>rv</b>	= <b>revised version</b>
<b>d</b>			
<b>num</b>	= <b>numbered</b>	<b>s</b>	= <b>section</b>

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
<b>o in c</b>	= <b>order in council</b>	<b>sch</b>	= <b>schedule</b>
<b>om</b>	= <b>omitted</b>	<b>sdiv</b>	= <b>subdivision</b>
<b>orig</b>	= <b>original</b>	<b>SIA</b>	= <b>Statutory Instruments Act 1992</b>
<b>p</b>	= <b>page</b>	<b>SIR</b>	= <b>Statutory Instruments Regulation 2012</b>
<b>para</b>	= <b>paragraph</b>	<b>SL</b>	= <b>subordinate legislation</b>
<b>prec</b>	= <b>preceding</b>	<b>sub</b>	= <b>substituted</b>
<b>pres</b>	= <b>present</b>	<b>unnum</b>	= <b>unnumbered</b>
		<b>m</b>	
<b>prev</b>	= <b>previous</b>		

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

<b>Reprint No.</b>	<b>Amendments included</b>	<b>Effective</b>	<b>Notes</b>
1	none	1 February 2010	
1A	2010 SL No. 150	1 July 2010	

<b>Reprint No.</b>	<b>Amendments included</b>	<b>Effective</b>	<b>Notes</b>
1B	2011 SL No. 118	1 July 2011	
1C	2012 SL No. 122	3 August 2012	

<b>Current as at</b>	<b>Amendments included</b>	<b>Notes</b>
1 July 2013	2013 SL No. 91	
1 July 2014	2014 SL No. 97 2014 SL No. 105	
1 July 2015	2015 SL No. 65	
1 July 2016	2016 SL No. 76	
18 November 2016	2016 SL No. 206	

## 4 List of legislation

### Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

### Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

### Adoption Regulation 2009 SL No. 303

made by the Governor in Council on 9 December 2009  
notfd gaz 11 December 2009 pp 1187–91  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 February 2010 (see s 2)  
exp 1 September 2020 (see SIA s 54)

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

### Adoption Amendment Regulation (No. 1) 2010 SL No. 150

notfd gaz 25 June 2010 pp 823–30  
ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2010 (see s 2)

**Adoption Amendment Regulation (No. 1) 2011 SL No. 118**

notfd gaz 24 June 2011 pp 534–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2011 (see s 2)

**Adoption Amendment Regulation (No. 1) 2012 SL No. 122**

notfd gaz 3 August 2012 pp 950–1

commenced on date of notification

**Adoption Amendment Regulation (No. 1) 2013 SL No. 91**

notfd gaz 14 June 2013 pp 297–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2013 (see s 2)

**Disability Services and Other Legislation Amendment Regulation (No. 1) 2014 SL No. 97 pts 1, 3**

notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 13 June 2014

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2014 (see s 2)

**Public Guardian Regulation 2014 SL No. 105 pts 1, 3**

notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 20 June 2014

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2014 (see s 2(1))

**Adoption Amendment Regulation (No. 1) 2015 SL No. 65**

notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 26 June 2015

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2015 (see s 2)

**Adoption Amendment Regulation (No. 1) 2016 SL No. 76**

notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 17 June 2016

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2016 (see s 2)

**Adoption (Extension of Eligibility Criteria) Amendment Regulation 2016 SL No. 206**

notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 18 November 2016

commenced on date of notification

## 5 List of annotations

**Requirements for expressing an interest—Act, s 71**

s 4 amd 2016 SL No. 206 s 3

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

s 5 sub 2016 SL No. 206 s 4

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

s 6 amd 2016 SL No. 206 s 5

**PART 5—MISCELLANEOUS**

**pt hdg** (prev pt 4 hdg) renum 2010 SL No. 150 s 4

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

**s 16** amd 2010 SL No. 150 s 5; 2016 SL No. 206 s 6

**SCHEDULE 1—PRESCRIBED IDENTITY DOCUMENTS**

amd 2014 SL No. 105 s 5

**SCHEDULE 2—FEES**

sub 2010 SL No. 150 s 6; 2011 SL No. 118 s 4; 2012 SL No. 122 s 3; 2013 SL No. 91 s 4; 2014 SL No. 97 s 24; 2015 SL No. 65 s 4; 2016 SL No. 76 s 4

**SCHEDULE 3—DICTIONARY**

def *qualified witness* amd 2010 SL No. 150 s 7

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