



Australian Capital Territory

# **Adoption Regulation 1993**

**SL1993-31**

made under the

**Adoption Act 1993**

**Republication No 12 (RI)**

**Effective: 7 November 2013 – 16 November 2014**

Republication date: 7 November 2013

Reissued: 24 February 2014 because of High Court decision  
in relation to [A2013-39](#)

Last amendment made by [A2013-39](#) (never effective)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Adoption Regulation 1993*, made under the *Adoption Act 1993* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 7 November 2013. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 7 November 2013.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$140 for an individual and \$700 for a corporation (see *Legislation Act 2001*, s 133).



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R12 (RI)  
24/02/14

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Australian Capital Territory

# Adoption Regulation 1993

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made under the

**[Adoption Act 1993](#)**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Adoption Regulation 1993*.

### 2 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation.

*Note 2* A definition in the dictionary applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 2A Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.



**2B Offences against regulation—application of Criminal Code etc**

Other legislation applies in relation to offences against this regulation.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Register of suitable people

### 4 Register of suitable people—requests for inclusion

For the [Act](#), section 18 (1), a request by an applicant for approval to be registered as suitable for the placement of a child or young person for adoption must state the following:

- (a) in relation to the applicant—
  - (i) full name; and
  - (ii) usual place of residence; and
  - (iii) occupation; and
  - (iv) date and place of birth; and
  - (v) domicile; and
  - (vi) religion (if any); and
  - (vii) state of health; and
  - (viii) financial circumstances;
- (b) if the applicant is in a domestic partnership—the length of the partnership;
- (c) in relation to each child (if any) of the applicant (whether a birth child or adopted child)—
  - (i) sex and date of birth; and
  - (ii) the state of health of any living child; and
  - (iii) if any child has died—the date of death;
- (d) whether the applicant has ever been refused an adoption order;
- (e) whether an adoption order or interim order in the applicant's favour has been discharged;

- (f) whether the applicant's name is entered on a list of people seeking to adopt a child in another State or Territory;
- (g) if paragraph (f) applies—particulars of the entry on the relevant adoption list.

## Part 3 Consents

### 5 Consent must be accompanied by statutory declaration

For the [Act](#), section 30 (Instrument of consent), an instrument of consent must be accompanied by the statutory declaration mentioned in section 6 (b).

*Note* If a form is approved under the [Act](#), s 120A for a consent, the form must be used.

### 6 Conditions for signing

A person must not sign an instrument of consent unless the person—

- (a) received a copy of the form of consent no later than 14 days before the date when the consent is signed; and
- (b) has signed a statutory declaration stating that he or she is the parent or guardian of the child or young person; and
- (c) has shown the declaration to the primary witness to the signing of the instrument.

### 7 Primary and secondary witnesses

- (1) For the [Act](#), section 30, an instrument of consent must be signed in the presence of, and must be attested by, a primary witness and a secondary witness.
- (2) A primary witness must be—
  - (a) for an instrument signed in Australia—
    - (i) a commissioner for declarations under the [Statutory Declarations Act 1959](#) (Cwlth); or
    - (ii) a justice of the peace; or
    - (iii) a lawyer (other than a lawyer acting for the applicants); or
    - (iv) a social worker approved by the director-general; or

- (b) for an instrument signed in a foreign country—
  - (i) an Australian diplomatic officer, or an Australian consular officer, within the meaning of the *Consular Fees Act 1955* (Cwlth); or
  - (ii) a judge of a court of that country; or
  - (iii) a magistrate or justice of the peace of or for that country; or
  - (iv) a notary public.
- (3) A secondary witness must be—
  - (a) for an instrument signed in Australia—a person prescribed by the *Statutory Declarations Regulations* (Cwlth), regulation 4; or
  - (b) for an instrument signed in a foreign country—a person referred to in subsection (2) (b).

## 8 Functions of primary witness

The primary witness to the signing of an instrument of consent must not attest to that signing unless the primary witness—

- (a) has informed the person signing the instrument about the legal implications of adoption and the legal consequences of signing the instrument; and
- (b) is satisfied that the person understands those consequences and implications.

**9 Functions of secondary witness**

The secondary witness to the signing of an instrument of consent must not attest to that signing unless the secondary witness is satisfied that—

- (a) the primary witness has adequately exercised his or her functions under section 8 (a); and
- (b) the person signing the instrument of consent understands the legal implications of adoption and the legal consequences of signing the instrument.

## Part 5 Adoption records

### 11 Particulars to be given to director-general by private adoption agencies following adoption orders

For the [Act](#), section 61 (2) (b), the prescribed particulars are as follows:

- (a) in relation to the adopted child or young person—
  - (i) full name before the adoption;
  - (ii) sex;
  - (iii) date of birth;
  - (iv) place of birth;
  - (v) father's full name;
  - (vi) mother's full name;
  - (vii) full name of any other parent;
  - (viii) mother's maiden name (if applicable);
  - (ix) mother's name at date of birth of the child or young person;
  - (x) full name following adoption;
- (b) in relation to each adoptive parent—
  - (i) full name;
  - (ii) place of residence;
  - (iii) occupation;
  - (iv) date of birth;
  - (v) place of birth;
  - (vi) domicile;

- (vii) religion (if any);
- (viii) if married or in a civil union—date and place of marriage or civil union;
- (ix) if not married or in a civil union—whether in another domestic partnership or single;
- (c) in relation to each child (if any) of each adoptive parent (whether a birth child or adopted child)—
  - (i) sex;
  - (ii) date of birth;
  - (iii) state of health of each living child;
  - (iv) if a child has died—date of death;
- (d) in relation to each birth parent—
  - (i) full name;
  - (ii) date of birth;
  - (iii) date when consent is signed;
  - (iv) whether consent is general or limited;
  - (v) details of any express wishes contained in the consent;
- (e) in relation to the primary witness and secondary witness to the signing of the instrument of consent—
  - (i) full name;
  - (ii) capacity in which the instrument is witnessed;
- (f) in relation to the person who provides the report to the court under the [Act](#), section 39D (1)—
  - (i) full name;
  - (ii) qualifications;



- (iii) relevant experience;
- (iv) business address.

## 12 Transfer of private agency records to director-general

- (1) This section applies if a private adoption agency—
- (a) ceases to exist; or
  - (b) has its approval revoked under the [Act](#), section 85 (Revocation or suspension of approval).

*Note* The director-general may revoke an agency's approval if—

- the agency asks; or
- the agency is no longer suitable to conduct negotiations and make arrangements about the adoption of children or young people; or
- the agency has contravened a provision of the [Act](#), pt 6 or a regulation.

- (2) The person who was the last principal officer of the agency commits an offence if the person does not give the director-general all adoption records kept by the agency.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

## 13 Maintenance of records

For the [Act](#), section 61 (4), all adoption records held by a private adoption agency must be kept in a lockable, fire-resistant steel cabinet.

*Note* Adoption records held by the director-general must be held in accordance with the [Territory Records Act 2002](#).

## Part 6 Private adoption agencies

### 14 Application for approval

- (1) An application under the [Act](#), section 81 by a charitable organisation for approval as a private adoption agency must be in writing setting out the following information:
  - (a) the name of the organisation;
  - (b) the objects and purposes, or proposed objects and purposes, of the organisation;
  - (c) the place where the organisation has its principal office;
  - (d) the facilities available at the principal office of the organisation, and in particular the availability of confidential interviewing rooms;
  - (e) the full name and address of each person taking part, or proposing to take part, in the management or control of the organisation;
  - (f) the full name and address of the person appointed as the principal officer of the organisation;
  - (g) if the organisation is incorporated—the way and date of its incorporation;
  - (h) the proposed method of financing the agency, including a financial statement and budget estimate;
  - (i) details of the organisation's affiliation with any body delivering child and family welfare services (including services for the care of a child or young person for the period before his or her placement for adoption or the period after a child or young person is removed from a failed adoption placement);

- (j) the structure, membership and interests of the committee of the organisation responsible for—
    - (i) making recommendations on applications for approval as people suitable to adopt a child or young person; and
    - (ii) conducting negotiations and making arrangements with a view to the placement of children or young people for adoption;
  - (k) the method of keeping adoption records and the arrangements made for the safekeeping of the records;
  - (l) the numbers, qualifications, experience and duties of people engaged, or proposed to be engaged, on behalf of the organisation to make arrangements for the adoption of children or young people;
  - (m) the arrangements envisaged for training staff of the organisation;
  - (n) if the agency intends to organise adoptions of children or young people from foreign countries—what arrangements have been made for that purpose between the organisation and any relevant authorities and organisations in the foreign countries;
  - (o) the organisation's reasons for wishing to make arrangements for the adoption of children or young people;
  - (p) any experience of the organisation in making arrangements for the adoption of children or young people or related child and family welfare services.
- (2) An application under subsection (1) must be accompanied by—
- (a) if the organisation is incorporated—a copy of its rules, or its articles and memorandum of association; and
  - (b) particulars of any instrument evidencing trusts relating to the organisation, together with a copy of any such instrument.

**15 Alteration of objects, structure or trusts of private adoption agency**

- (1) This section applies if any alteration affecting the functions of a private adoption agency in relation to adoptions, or its status as a charitable organisation, happens in—
- (a) the objects or purposes of the agency; or
  - (b) the rules or memorandum or articles of the agency; or
  - (c) any trusts relating to the agency.
- (2) If this section applies, the principal officer of the relevant agency must give the director-general—
- (a) notice of the alteration; and
  - (b) a copy of the instrument evidencing the alteration; and
  - (c) a statutory declaration verifying the authenticity of the copy; and
  - (d) for an alteration of the objects, purposes, rules, memorandum or articles of association of the agency—a notice that the alteration—
    - (i) is authorised; and
    - (ii) was made in the way provided by the rules, memorandum or articles of the agency.

**16 Principal officer**

A private adoption agency must not appoint a person as principal officer of the agency unless the person—

- (a) has obtained a tertiary qualification in social work, or in an appropriate social science, approved by the director-general; and

- (b) has 5 years experience in providing child and family welfare services relevant to the adoption of children or young people; and
- (c) agrees to undertake any course of training that, in the opinion of the director-general, is necessary to enable the principal officer to carry out the duties of his or her position.

**17 People acting for or on behalf of private adoption agency**

A private adoption agency must not permit a person to conduct negotiations or make arrangements in relation to the adoption of children or young people for or on behalf of the agency unless the person—

- (a) has completed a course in social work approved by the director-general; and
- (b) has completed 5 years practical experience in social work, of which at least 3 years is relevant to the adoption of children or young people.

**18 Adoption of overseas children or young people**

A private adoption agency must not conduct negotiations or make arrangements in relation to the adoption of a child or young person brought from a foreign country for the purpose of adoption in the ACT unless the requirements of the [Act](#), section 20 (2) have been complied with.

**19 Residential premises**

A private adoption agency must not be conducted from premises normally used for residential purposes.

**20 Storage of information**

A private adoption agency must ensure that its adoption records are protected by reasonable security safeguards against—

- (a) loss; and
- (b) unauthorised access, use, modification or disclosure; and
- (c) other misuse.

**21 Private adoption agencies not to breach Cwlth information privacy principles**

- (1) A private adoption agency commits an offence if it does something that would, if it were an agency for the *Privacy Act 1988* (Cwlth), breach an information privacy principle within the meaning of that Act.

Maximum penalty: 5 penalty units.

*Note* The information privacy principles are contained in the *Privacy Act 1988* (Cwlth), s 14. They deal with the following issues:

- how and why personal information may be collected
- solicitation of personal information from individual concerned
- solicitation of personal information generally
- storage and security of personal information
- information relating to records kept by record-keeper
- access to records containing personal information
- alteration of records containing personal information
- record-keeper to check accuracy etc of personal information before use
- personal information to be used only for relevant purposes
- limits on use of personal information
- limits on disclosure of personal information.

- (2) An offence against this section is a strict liability offence.

## Part 7 Registration of adoptions

### 22 Register of adoptions

- (1) The registrar-general must keep a register of adoptions for the [Act](#).

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the [Act](#), including any regulation (see [Legislation Act](#), s 104).

- (2) The register of adoptions kept by the registrar-general under the [Adoption of Children Act 1965](#), section 56 (a) before the commencement of the [Adoption Act 1993](#), section 3 is to be taken to form part of the register of adoptions kept under subsection (1).
- (3) The registrar-general must keep an index of the entries in the register of adoptions.

### 23 Registration

- (1) The registrar-general must register a memorandum of an adoption order by entering particulars of the adoption in the register of adoptions.

*Note* If a form is approved under the [Act](#), s 120A for a memorandum, the form must be used.

- (2) If the registrar-general receives a memorandum or copy of an adoption order made under a law in force in a State or in another Territory, the registrar-general must register it by entering particulars of the adoption in the register of adoptions.
- (3) If the registrar-general receives a copy of an order, made under the [Act](#) or made under a law of a State or another Territory, for the discharge of an adoption order that has been registered in the register of adoptions, the registrar-general must register it by entering particulars of the discharge on the page of the register of adoptions where the adoption order was registered.

- (4) The registrar-general must register a copy of an adoption order declared by the court under the [Act](#), section 57M to be an adoption that complies with the [Act](#), section 57L by entering the relevant particulars in the register of adoptions.

## 24 Access to information from register of adoptions

- (1) The registrar-general must only allow a person to have access to the register of adoptions or to any memorandum or copy of an adoption order or an order discharging an adoption order—
  - (a) in accordance with an order of the court; or
  - (b) if the registrar-general is satisfied that the access is properly required for the purpose of providing evidence in proceedings under the *Family Law Act 1975* (Cwlth); or
  - (c) under this section.
- (2) On application by an adopted person born in a foreign country or by an adoptive parent of such an adopted person, the registrar-general must issue the applicant with a certificate in the form of an entry in the register of births.

*Note* A fee may be determined under the [Act](#), s 118 for this section.

- (3) The applicant must provide, in writing, any additional information required by the registrar-general to issue the certificate.
- (4) In this section:

*access*, in relation to the register of adoptions or a memorandum or copy of an adoption order or an order discharging an adoption order, includes—

- (a) inspection of the register or the memorandum or copy; and
- (b) for the register—provision of an extract from the register; and



- (c) for a memorandum of an order or a copy of a memorandum of an order—provision of a copy of, or an extract from the memorandum or copy.

## **25 Re-registration of birth of adopted child or young person**

- (1) If an order for the adoption of a child or young person born in the ACT has been registered in the register of adoptions, the registrar-general must re-register the birth of the child or young person by entering in the register of births—
  - (a) particulars, ascertained from the memorandum or copy of the adoption order—
    - (i) of the child's or young person's name after adoption; and
    - (ii) of the sex, date and place of birth of the child or young person; and
    - (iii) of the adoptive parents or parent; and
  - (b) a notation to the entry, signed and dated by the registrar-general, to the effect that the birth of the child or young person is registered under this section.
- (2) If, for a child or young person born in the ACT, an order discharging an adoption order has been registered in the register of adoptions, the registrar-general must—
  - (a) make a notation accordingly on the page in the register of births where the birth of that child or young person has been re-registered under subsection (1); and
  - (b) re-register the birth of that child or young person accordingly.
- (3) The notation mentioned in subsection (1) or (2) must not be included on any copy of, or extract from, an entry in the register of births issued by the registrar-general.

- (4) If the registrar-general re-registers the birth of an adopted child or young person under this section, the registrar-general must sign and date a notation, written on the page of the register of births that contains the original entry of the birth, to the effect that the birth of the child or young person has been re-registered under this section on a specified page of the register.
- (5) If an adoption order relates to a child or young person who has previously been adopted, the registrar-general must re-register the birth of the child or young person as if the entry relating to the previous adoption of that child or young person were the original entry of the birth of that child or young person.
- (6) This section has effect, in relation to an adoption order, or an order discharging an adoption order, made under the repealed laws and in force on 31 July 1993 as if the relevant order had been made under the [Act](#).

## **26 Correction of errors in register of adoptions**

- (1) If the registrar-general is satisfied that the register of adoptions contains an error or misstatement in, or an omission from, any particulars entered under this regulation, the registrar-general must correct the register accordingly.
- (2) If the registrar-general corrects an entry in the register of adoptions under subsection (1), the registrar-general must sign his or her name immediately under the correction and write the date when the correction was made.

## **27 Cancellation of entries in register of adoptions**

- (1) If the registrar-general is satisfied that an entry in the register of adoptions is false, the registrar-general must cancel the entry by writing in the margin of the entry the words ‘Cancelled under the Adoption Regulation 1993, section 27’, signing his or her name immediately under those words and writing the date when the entry was cancelled.

- (2) The registrar-general must not cancel an entry in the register of adoptions—
- (a) if the entry can be corrected under section 26; or
  - (b) unless the Attorney-General, or a person authorised by the Attorney-General, has approved, in writing, the cancellation of the entry.

**27A Offence to destroy etc register**

- (1) A person commits an offence if the person destroys, defaces or damages the register of adoptions.
- Maximum penalty: 5 penalty units.
- (2) An offence against this section is a strict liability offence.

**27B Offence to re-register birth**

- (1) A person commits an offence if the person—
- (a) obtains the re-registration of the birth of an adopted child or young person; and
  - (b) the re-registration is obtained otherwise than in accordance with this regulation.
- Maximum penalty: 5 penalty units.
- (2) An offence against this section is a strict liability offence.

**28 Obligations of registrar-general**

The registrar-general must not—

- (a) omit or refuse, without reasonable cause, to register in the register of adoptions in accordance with this part an adoption order or an order discharging an adoption order; or

- (b) omit, or refuse, without reasonable cause, to re-register in the register of births in accordance with this part the birth of an adopted child or young person who was born in the ACT; or
- (c) enter any particulars in the register of adoptions if those particulars are, to his or her knowledge, false or misleading in a material particular.

**29 Memoranda of orders sent to States and other Territories**

The prescribed officer of a State or of a Territory specified in schedule 1, column 2 to whom a memorandum of an order, or copy of the discharge of an order, for the adoption of a child or young person born in that State or Territory is to be sent under the [Act](#), section 105 is the officer of that State or Territory specified in that schedule, column 3 opposite the name of that State or Territory.

**30 Reviewable decisions—Act, s 102, def *reviewable decision***

A decision mentioned in schedule 2, column 3, under a provision mentioned in column 2 in relation to the decision is prescribed.

**30A Right of review and notice—Act, s 103 and s 103A**

An entity mentioned in schedule 2, column 4 is prescribed.

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## Schedule 1 Registering officers

(see s 29)

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<b>column 1 item</b>	<b>column 2 State or Territory</b>	<b>column 3 registering officer</b>
1	New South Wales	principal registrar of births, deaths and marriages
2	Victoria	government statist
3	Queensland	registrar-general
4	Western Australia	registrar-general
5	South Australia	principal registrar of births, deaths and marriages
6	Tasmania	registrar of births, deaths and marriages
7	Northern Territory	registrar of births, deaths and marriages
8	Norfolk Island	registrar of births, deaths and marriages
9	Christmas Island	registrar-general of births, deaths and marriages
10	Cocos (Keeling) Islands	registrar-general of births, deaths and marriages

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## Schedule 2 Reviewable decisions

(see s 30 and s 30A)

*Note* If a child or young person is mentioned in col 4 in relation to a decision, the director-general must give a notice to the child or young person only if the director-general considers it appropriate, having regard to the age of the child or young person (see [Act](#), s 103 (2)).

column 1 item	column 2 section	column 3 decision	column 4 entity
1	<a href="#">Act</a> , 18	refuse to approve application under section 18	applicant for approval
2	<a href="#">Act</a> , 19	removal of person's name from register under section 19	person whose name was removed
3	<a href="#">Act</a> , 32	deny access	person denied access or person who has custody of child or young person or child or young person
4	<a href="#">Act</a> , 38	refuse to declare that child or young person is under director-general's guardianship	requesting authority in State or another Territory or person with whom child or young person has been placed with view to adoption or child or young person

column 1 item	column 2 section	column 3 decision	column 4 entity
5	<a href="#">Act, 62</a>	refuse to give information, request authority to give information, or make enquires	applicant for information
6	<a href="#">Act, 62 (3)</a>	refuse to cause search to be made in register of births or refuse to issue copy of, or extract from, search or notification of result of search	applicant for search
7	<a href="#">Act, 68 (7)</a>	withhold information	applicant for information
8	<a href="#">Act, 72 (1)</a>	supply document or information when applicant has not attended interview with approved counsellor	applicant for document or information
9	<a href="#">Act, 72 (4)</a>	refuse to approve person as counsellor	person refused approval
10	<a href="#">Act, 82</a>	refuse to grant approval of private adoption agency	principal officer of organisation
11	<a href="#">Act, 85</a>	revoke or suspend approval	principal officer of organisation that has approval revoked or suspended

column 1 item	column 2 section	column 3 decision	column 4 entity
12	Act, 92	deny approval of communication	person who seeks approval to communicate or child or young person or adoptive parent
13	Act, 92 (b)	approve communication subject to conditions or restrictions	person who seeks approval to communicate or child or young person or adoptive parent
14	Act, 94 (2) (b)	refuse to approve payment in respect of hospital and medical expenses	adoptive parent or birth mother of child or young person or person who sought approval of payment
15	Act, 94 (2) (c)	refuse to authorise payment or reward	adoptive parent or birth mother of child or young person or person who sought approval of payment or reward
16	Act, 96 (2)	refuse to approve advertising or other matter	person who seeks approval of advertisement or other matter or child or young person
17	16 (a)	refuse to approve tertiary qualification in social work or in appropriate social science	person who seeks appointment as principal officer of private adoption agency



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<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>
18	17 (a)	refuse to approve course in social work	person who seeks to act for or on behalf of private adoption agency

## Dictionary

(see s 2)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- civil union
- director-general (see s 163)
- domestic partner (see s 169 (1))
- function
- proceeding.

*Note 3* Terms used in this regulation have the same meaning that they have in the [Adoption Act 1993](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Adoption Act 1993](#), dict:

- adoption order
- birth parent
- charitable organisation
- court
- general consent
- guardian
- instrument of consent
- interim order
- limited consent
- principal officer
- private adoption agency
- register of births
- register of suitable people.

***adoption record*** means—

- (a) a document; or
- (b) a database (however kept); or

(c) a photograph or other pictorial representation of a person; that contains personal information about a person applying to adopt a child, or a person relinquishing a child for adoption.

*primary witness* means a person mentioned in section 7 (2).

*register of adoptions* means the register kept under section 22.

*secondary witness* means a person mentioned in section 7 (3).

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This regulation was originally the *Adoption Regulations*. It was renamed under the *Legislation Act 2001*.

#### **Adoption Regulation 1993 SL1993-31**

notified 30 July 1993 (s 2 (1))

s 1, s 2 commenced 30 July 1993

remainder commenced 31 July 1993 (s 2 (2))

as amended by

#### **Registrar-General (Consequential Provisions) Act 1993 A1993-64 sch 2**

notified 6 September 1993 ([Gaz 1993 No S172](#))

s 1, s 2 commenced 6 September 1993 (s 2 (1))

sch 2 commenced 1 October 1993 (s 2 (2)) and see [Gaz 1993 No S207](#))

#### **Regulations Revision Regulations 1994 SL1994-7 sch 1**

notified 22 March 1994

commenced 22 March 1994 (s 2)

#### **Administrative Appeals (Consequential Amendments) Act 1994 A1994-60 sch 2**

notified 11 October 1994 ([Gaz 1994 No S197](#))

s 1, s 2 commenced 11 October 1994 (s 2 (1))

sch 2 commenced 14 November 1994 (s 2 (2)) and see [Gaz 1994 No S250](#))

#### **Legal Practitioners (Consequential Amendments) Act 1997 A1997-96 sch 2**

notified 1 December 1997 ([Gaz 1997 No S380](#))

s 1, s 2 commenced 1 December 1997 (s 2 (1))

sch 2 commenced 1 June 1998 (s 2 (2))

#### **Children and Young People (Consequential Amendments) Act 1999 A1999-64 sch 3**

notified 10 November 1999 ([Gaz 1999 No 45](#))

s 1, s 2 commenced 10 November 1999 (s 2 (1))

sch 3 commenced 10 May 2000 (s 2 (2))

## Endnotes

3 Legislation history

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**Legislation (Consequential Amendments) Act 2001 A2001-44 pt 8**

notified 26 July 2001 ([Gaz 2001 No 30](#))  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 8 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

**Parentage Act 2004 A2004-1 sch 1 pt 1.3**

notified LR 18 February 2004  
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))  
sch 1 pt 1.3 commenced 22 March 2004 (s 2 and [CN2004-3](#))

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.2**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.2 commenced 24 November 2005 (s 2)

**Civil Unions Act 2006 A2006-22 sch 1 pt 1.3**

notified LR 19 May 2006  
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))  
sch 1 pt 1.3 never commenced

*Note* Act repealed by disallowance 14 June 2006 (see *Cwlth Gaz* 2006 No S93)

**Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.2**

notified LR 15 May 2008  
s 1, s 2 commenced 15 May 2008 (LA s 75 (1))  
sch 1 pt 1.2 commenced 19 May 2008 (s 2 and [CN2008-8](#))

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.3**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.3 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35](#), s 2 (1) and [CN2009-2](#))

**Adoption Amendment Act 2009 (No 2) A2009-36 sch 1 pt 1.1**

notified LR 22 October 2009  
s 1, s 2 commenced 22 October 2009 (LA s 75 (1))  
sch 1 pt 1.1 commenced 22 April 2010 (s 2 and LA s 79)

**Adoption Amendment Regulation 2010 (No 1) SL2010-32**

notified LR 2 August 2010  
s 1, s 2 commenced 2 August 2010 (LA s 75 (1))  
remainder commenced 3 August 2010 (s 2)

**Administrative (One ACT Public Service Miscellaneous Amendments)****Act 2011 A2011-22 sch 1 pt 1.6**

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.6 commenced 1 July 2011 (s 2 (1))

**Civil Unions Act 2012 A2012-40 sch 3 pt 3.3**

notified LR 4 September 2012

s 1, s 2 commenced 4 September 2012 (LA s 75 (1))

sch 3 pt 3.3 commenced 11 September 2012 (s 2)

**Marriage Equality (Same Sex) Act 2013 A2013-39 sch 2 pt 2.1**

notified LR 4 November 2013

s 1, s 2 commenced 4 November 2013 (LA s 75 (1))

sch 2 pt 2.1 commenced 7 November 2013 (s 2 and [CN2013-11](#))

*Note* The High Court held this Act to be of no effect (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Name of regulation

s 1 am R2 LA; R4 LA

#### Dictionary

s 2 om [A2001-44](#) amdt 1.64  
ins [SL2010-32](#) s 6

#### Notes

s 2A ins [A2005-54](#) amdt 1.3

#### Offences against regulation—application of Criminal Code etc

s 2B ins [A2005-54](#) amdt 1.3

#### Definitions for regulation

s 3 am [A2001-44](#) amdt 1.66, amdt 1.67  
defs reloc to dict [SL2010-32](#) s 5  
om [SL2010-32](#) s 6  
def **Act** om [A2001-44](#) amdt 1.65  
def **adoption list** am [A1999-64](#) sch 3  
om [SL2010-32](#) s 4  
def **determined** fee om [A2001-44](#) amdt 1.65

#### Register of suitable people

pt 2 hdg sub [SL2010-32](#) s 7

#### Register of suitable people—requests for inclusion

s 4 sub [SL2010-32](#) s 8  
am [SL2010-32](#) s 13

#### Consent must be accompanied by statutory declaration

s 5 sub [A2001-44](#) amdt 1.68

#### Conditions for signing

s 6 am [SL2010-32](#) s 13

#### Primary and secondary witnesses

s 7 am [A1997-96](#) sch 2; [A1999-64](#) sch 3; [A2011-22](#) amdt 1.26

#### Access to information

pt 4 hdg om R8 LA

#### Prescribed information—incest and sexual assault

s 10 om [A2009-36](#) amdt 1.1



**Particulars to be given to director-general by private adoption agencies following adoption orders**

s 11 hdg am [A2011-22](#) amdt 1.26  
s 11 am [A2004-1](#) amdt 1.14; pars renum R3 LA (see [A2004-1](#) amdt 1.15); [A2006-22](#) amdt 1.12 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2008-14](#) amdt 1.3; [SL2010-32](#) s 9, s 13; [A2012-40](#) amdt 3.11

**Transfer of private agency records to director-general**

s 12 hdg am [A2011-22](#) amdt 1.26  
s 12 am [A1999-64](#) sch 3  
sub [A2005-54](#) amdt 1.4  
am [SL2010-32](#) s 14; [A2011-22](#) amdt 1.26

**Maintenance of records**

s 13 am [A1999-64](#) sch 3  
sub [A2009-36](#) amdt 1.2  
am [A2011-22](#) amdt 1.26

**Application for approval**

s 14 pars renum R2 LA  
am [SL2010-32](#) s 13, s 14

**Alteration of objects, structure or trusts of private adoption agency**

s 15 am [A1999-64](#) sch 3; [A2011-22](#) amdt 1.26

**Principal officer**

s 16 am [A1999-64](#) sch 3; [SL2010-32](#) s 14; [A2011-22](#) amdt 1.26

**People acting for or on behalf of private adoption agency**

s 17 am [A1999-64](#) sch 3; [SL2010-32](#) s 14; [A2011-22](#) amdt 1.26

**Adoption of overseas children or young people**

s 18 hdg am [SL2010-32](#) s 14  
s 18 am [SL2010-32](#) s 13, s 14

**Private adoption agencies not to breach Cwlth information privacy principles**

s 21 sub [A2005-54](#) amdt 1.5

**Register of adoptions**

s 22 am [A1993-64](#) sch 2; [A2001-44](#) amdt 1.69

**Registration**

s 23 am [A1993-64](#) sch 2; [A2001-44](#) amdts 1.70-1.72; [SL2010-32](#) s 10

**Access to information from register of adoptions**

s 24 am [A1993-64](#) sch 2; [A2001-44](#) amdt 1.73-1.75

## Endnotes

### 4 Amendment history

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#### **Re-registration of birth of adopted child or young person**

s 25 hdg am [SL2010-32](#) s 13  
s 25 am [A1993-64](#) sch 2; [SL2010-32](#) s 11, s 13

#### **Correction of errors in register of adoptions**

s 26 am [A1993-64](#) sch 2

#### **Cancellation of entries in register of adoptions**

s 27 am [A1993-64](#) sch 2

#### **Offence to destroy etc register**

s 27A ins [A2005-54](#) amdt 1.6

#### **Offence to re-register birth**

s 27B ins [A2005-54](#) amdt 1.6  
am [SL2010-32](#) s 13

#### **Obligations of registrar-general**

s 28 hdg sub [A2005-54](#) amdt 1.7  
s 28 am [A1993-64](#) sch 2; [A2005-54](#) amdt 1.8; [SL2010-32](#) s 13

#### **Memoranda of orders sent to States and other Territories**

s 29 am [A2001-44](#) amdts 1.76-1.78; [SL2010-32](#) s 13

#### **Reviewable decisions—Act, s 102, def *reviewable decision***

s 30 am [SL1994-7](#) sch 1; [A1994-60](#) sch 2; [A1999-64](#) sch 3  
sub [A2008-37](#) amdt 1.15

#### **Right of review and notice—Act, s 103 and s 103A**

s 30A ins [SL1994-7](#) sch 1  
am [A1994-60](#) sch 2; [A1999-64](#) sch 3  
sub [A2008-37](#) amdt 1.15

#### **Determination of fees**

s 31 om [A2001-44](#) amdt 1.79

#### **Registering officers**

s 1 orig sch 1 om [A2001-44](#) amdt 1.80  
(prev sch 2) renum as sch 1 [A2001-44](#) amdt 1.81

#### **Reviewable decisions**

s 2 hdg note am [A2011-22](#) amdt 1.26  
s 2 orig sch 2 renum as sch 1  
ins [A2008-37](#) amdt 1.16  
am [A2009-36](#) amdt 1.3; items renum R8 LA; [SL2010-32](#) s 13;  
[A2011-22](#) amdt 1.27

**Dictionary**

dict

ins [SL2010-32](#) s 12am [A2011-22](#) amdt 1.28; [A2012-40](#) amdt 3.12; [A2013-39](#)  
amdt 2.1 ([A2013-39](#) never effective (see *Commonwealth v  
Australian Capital Territory* [2013] HCA 55))def **adoption record** reloc from s 3 [SL2010-32](#) s 5def **primary witness** reloc from s 3 [SL2010-32](#) s 5def **register of adoptions** reloc from s 3 [SL2010-32](#) s 5def **secondary witness** reloc from s 3 [SL2010-32](#) s 5

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	<a href="#">A1994-60</a>	31 January 1995
2	<a href="#">A2001-44</a>	11 April 2002
3	<a href="#">A2004-1</a>	22 March 2004
4	<a href="#">A2004-1</a>	3 November 2004
5	<a href="#">A2005-54</a>	24 November 2005
6	<a href="#">A2008-14</a>	19 May 2008
7	<a href="#">A2008-37</a>	2 February 2009
8	<a href="#">A2009-36</a>	22 April 2010
9	<a href="#">SL2010-32</a>	3 August 2010
10	<a href="#">A2011-22</a>	1 July 2011
11	<a href="#">A2012-40</a>	11 September 2012
12	<a href="#">A2013-39</a> (never effective)	7 November 2013

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