
COMMUNITY DEVELOPMENT

CX301*

Adoption Act 1994

Adoption Amendment Regulations 2003

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Adoption Amendment Regulations 2003*.

2. Commencement

These regulations come into operation on the day fixed by proclamation under the *Adoption Amendment Act (No. 2) 2003* section 2(1).

3. The regulations amended

The amendments in these regulations are to the *Adoption Regulations 1995**.

[* *Published in Gazette 29 December 1994, p. 7171.*

For amendments to 7 May 2003 see 2001 Index to Legislation of Western Australia, Table 4, p. 8, and Gazette 16 July and 10 December 2002.]

4. Regulation 6 amended

- (1) Regulation 6(1) is amended in the Table by deleting the items relating to sections 12 and 43.
- (2) Regulation 6(1) is amended in the Table in the item relating to sections 46 and 50 by deleting “46 and 50” and inserting instead —
“ 46, 50 and 73 ”.

5. Regulation 9 amended

- (1) After regulation 9(b) the following paragraph is inserted —
“
(ba) has contravened, or failed to comply with —
(i) a provision of the Act; or
(ii) the terms of the licence or a condition or restriction attached to it;
”.
- (2) Regulation 9(g) and “and” following is deleted and the following paragraph is inserted instead —
“
(g) does not employ staff with appropriate qualifications to place prospective adoptees;
and
”.

6. Regulation 22A and 22B inserted

After regulation 22 the following regulations are inserted —

“

22A. Biannual report

A private adoption agency must, by 28 January and 28 July 2004, and 28 January and 28 July in each subsequent year, cause to be prepared and submitted to the Director-General a report containing information on the operations of the agency in relation to the adoption services provided by it and any other information as the Director-General may direct in writing —

- (a) for the period between the day on which the agency’s licence has effect and 30 June or 31 December of the year of that day, whichever is the shorter period; and

- (b) for each period of 6 months after 30 June or 31 December of the year in which the agency is required to make its first report under paragraph (a).

22B. Provision of other information for review of operations

- (1) The Director-General may, in writing, require a private adoption agency to provide —
 - (a) access to, or copies of, the documents referred to in subregulation (2);
 - (b) oral information in relation to the operations of the agency, any adoption service conducted by the agency, and any document referred to in subregulation (2) or the subject matter of such a document.
- (2) The documents to which subregulation (1) applies are any of the following documents in the custody, power or control of the agency —
 - (a) a document that records information in relation to an adoption or proposed adoption that has been conducted by the agency;
 - (b) a document that relates to the operations of the agency including financial records, management records, staff records, client records and annual and other operational reports.
- (3) The Director-General may require provision of information under subregulation (1) in such manner and form as the Director-General thinks is appropriate in each case.
- (4) A private adoption agency is to comply with a requirement under subregulation (1) within 14 days of receiving written notification of the requirement or such longer period as is stated by the Director-General in the written notification.
- (5) The Director-General is to ensure that a copy of a report prepared on behalf of the Director-General as a result of a review of the operations of a private adoption agency is provided to the agency as soon as practicable after its completion.

”.

7. Regulation 23B amended

Regulation 23B is amended as follows:

- (a) before “An” the subregulation designation “(1)” is inserted;

- (b) before regulation 23B(a) the following paragraph is inserted —

“

- (aa) if made on or after 1 June 2003, be made during a period of time set by the State Central Authority as a period during which applications for accreditation can be made;

”;

- (c) after regulation 23B(e) the following subregulation is inserted —

“

- (2) The State Central Authority is to publish the periods of time set under subregulation (1)(aa) in such manner as the State Central Authority thinks is appropriate.

”.

8. Regulation 23C amended

- (1) After regulation 23C(c) the following paragraphs are inserted —

“

- (ca) has contravened, or failed to comply with —
 (i) a provision of the Act; or
 (ii) a condition or restriction attaching to an accreditation;
(cb) is not the holder of a current licence granted under section 9 of the Act to conduct adoption services and to perform other functions for the purposes of the Act;

”.

- (2) Regulation 23C(h) and “and” following is deleted and the following paragraph is inserted instead —

“

- (h) does not employ staff with appropriate qualifications to place prospective adoptees;
and

”.

9. Regulation 23G amended

Regulation 23G is amended by deleting “one year” and inserting instead —

“ 3 years ”.

10. Regulation 23H amended

Regulation 23H(2) is amended by deleting “one year” and inserting instead —

“ 3 years ”.

11. Regulation 23J amended

- (1) Regulation 23J(1)(c) and (g) are deleted.
- (2) Regulation 23J(k) is amended by deleting “51 and 52” and inserting instead —
“ 48, 49, 51, 52, 53 and 54 ”.

12. Regulation 23L amended

Regulation 23L(1)(b)(i) is amended by deleting “Act or these regulations;” and inserting instead —

“ Act. ”.

13. Regulation 23U inserted

After regulation 23T the following regulation is inserted in Part 2A —

“

23U. Provision of other information directed by the Minister

- (1) The Minister may, in writing, direct an accredited body to provide —
 - (a) access to, or copies of, the documents referred to in subregulation (2);
 - (b) oral information in relation to the operations of the body, any adoption service conducted by the body, and any document referred to in subregulation (2) or the subject matter of such a document.
- (2) The documents to which subregulation (1) applies are any of the following documents in the custody, power or control of the body —
 - (a) a document that records information in relation to an adoption or proposed adoption that has been conducted by the body;
 - (b) a document that relates to the operations of the body including financial records, management records, staff records, client records and annual and other operational reports.
- (3) The Minister may direct that information be provided under subregulation (1) in such manner and form as the Minister thinks is appropriate in each case.
- (4) An accredited body is to comply with a direction under subregulation (1) within 14 days of receiving written notification of the direction or such longer period as is stated by the Minister in the written notification.

- (5) The Minister is to ensure that a copy of a report prepared on behalf of the Minister as a result of a review of the operations of an accredited body is provided to the body as soon as practicable after its completion.

”.

14. Heading to Part 3 amended

The heading to Part 3 is amended by deleting “COMMITTEES” and inserting instead —

“ **COMMITTEE** ”.

15. Regulation 25 amended

- (1) Regulation 25(1) and (3) are amended by deleting “A” and inserting instead —

“ The ”.

- (2) Regulation 25(2) is amended by deleting “a committee” and inserting instead —

“ the committee ”.

16. Regulation 26 replaced

Regulation 26 is repealed and the following regulation is inserted instead —

“

26. Presiding member

The Director-General is to appoint the presiding member of the committee.

”.

17. Regulation 27 amended

Regulation 27(2) and (3) are repealed and the following subregulations are inserted instead —

“

- (2) The presiding member is to appoint a deputy presiding member and if the presiding member is unable to make the appointment then the Director-General is to appoint the deputy presiding member.
- (3) If an independent member referred to in section 14(2) of the Act is unavailable to act then the Director-General is to appoint another person who is independent of the Department to act in the place of the independent member.

”.

18. Regulation 28 amended

Regulation 28(1) is amended by deleting “appointment, and, in the case of a private adoption agency, for the duration of the licence of the agency, whichever is the shorter term.” and inserting instead —

“ appointment. ”.

19. Regulation 29 amended

- (1) Regulation 29(1) is repealed and the following subregulation is inserted instead —

“

- (1) A member may resign from office by notice in writing delivered to the Director-General.

”.

- (2) Regulation 29(2) is amended by deleting “or principal officer of a private adoption agency (as the case requires)”.
- (3) Regulation 29(4) is amended by deleting “or the principal officer of the private adoption agency (as the case requires)”.

20. Regulation 30 replaced

Regulation 30 is repealed and the following regulation is inserted instead —

“

30. Committee meetings

The committee may hold ordinary meetings at an interval to be determined by the committee and special meetings as required for the performance of the committee’s functions.

”.

21. Regulation 31 amended

Regulation 31(b) is deleted and the following paragraph is inserted instead —

“

- (b) at least one member who is independent of the Department must be present at the meeting.

”.

22. Regulation 33 amended

Regulation 33 is amended by deleting “a” and inserting instead —

“ the ”.

23. Regulation 35 amended

Regulation 35 is amended by deleting “and if relevant, the private adoption agency,”.

24. Regulation 37 amended

- (1) Regulation 37(2)(a) is deleted and the following paragraphs are inserted instead —

“

- (a) each applicant who is contemplating adoptive parenthood for the first time —
 - (i) has read the written information about adoption provided by the Director-General under section 37(1) of the Act; and
 - (ii) has been provided with oral information about adoption in the manner and form determined by the Director-General to be relevant to the applicant,and has completed a statement to that effect in the expression of interest form;
- (ab) each applicant who is already an adoptive parent and who is contemplating adoptive parenthood for a second or subsequent time —
 - (i) has read the written information about adoption provided by the Director-General under section 37(1) of the Act; and
 - (ii) has been provided with oral information about adoption in the manner and form determined by the Director-General to be relevant to the applicant if the Director-General decides to provide that information or the applicant has requested the provision of that information under section 37(3),and has completed a statement to that effect in the expression of interest form;

”.

- (2) Regulation 37(2)(c) is amended by deleting “the attendance at the adoption information session” and inserting instead —

“ having received all the information ”.

25. Regulation 40 replaced

Regulation 40 is repealed and the following regulation is inserted instead —

“

40. Review of suitability for prospective adoptive parenthood if 24 months since approval

Where a person has been approved by the adoption applications committee as a prospective adoptive

parent, the Director-General is not to place a child with that person with a view to the child's adoption by that person if more than 24 months have elapsed since the date of the approval unless —

- (a) the Director-General is of the opinion —
 - (i) that at the time of placement, the person would still be suitable for adoptive parenthood; and
 - (ii) where the adoption applications committee has approved the person in accordance with section 13(2) of the Act, that at the time of placement, the person is still suitable to adopt children in a category of children in respect of whom the person has been approved for prospective adoptive parenthood;

or

- (b) the adoption applications committee has reviewed the person's current circumstances and is satisfied —
 - (i) that at the time of placement, the person would still be suitable for adoptive parenthood; and
 - (ii) where the committee has approved the person in accordance with section 13(2) of the Act, that at the time of placement, the person is still suitable to adopt children in a category of children in respect of whom the person has been approved for prospective adoptive parenthood.

”.

26. Regulation 42 amended

Regulation 42 is amended by deleting “even though the prospective adoptive parent does not fulfil any of the requirements of regulation 40 or 41 which may be relevant to the placement of that child.” and inserting instead —

“

by that person even though the child would not otherwise have been placed with that person because of regulation 40 or 41.

”.

27. Regulation 43 repealed

Regulation 43 is repealed.

28. Regulation 56 amended

Regulation 56 is amended by deleting “Director-General.” and inserting instead —

“

Director-General except to the extent necessary to determine the sender and intended recipient of the message.

”.

29. Heading to Part 7 amended

The heading to Part 7 is amended by deleting “AGENCIES” and inserting instead —

“ **LICENSEES** ”.

30. Regulation 59 amended

Regulation 59 is amended as follows:

- (a) in the definition of “code of practice” by deleting “agency;” and inserting instead —
“ licensee ”;
- (b) in the definition of “licensee” by deleting “a person” and inserting instead —
“ an individual ”;
- (c) after the definition of “service” by deleting the semicolon and inserting a full stop instead;
- (d) by deleting the definition of “person”.

31. Regulation 74 amended

Regulation 74 is amended by deleting “the Minister or”.

32. Regulation 86B inserted

After regulation 86A the following regulation is inserted in Part 9 —

“

86B. Fees for provision of information to persons contemplating adoptive parenthood

A fee not exceeding \$110 for each session for each person may be charged for the provision of information for the purposes of section 37 of the Act.

”.

33. Regulation 90 inserted

After regulation 89 the following regulation is inserted in Part 9 —

“

90. Refund of fees paid

If a person has paid a fee referred to in regulation 87 and subsequently proceeds with an application under section 38 of the Act in respect of the adoption of a

child referred to in regulation 88(1) or (2), the Director-General may refund to the person all or part of the fee that the person would have been exempt from paying under regulation 87.

”.

34. References to “an” adoptions application committee amended to “the” adoptions applications committee

The provisions in the Table to this regulation are amended by deleting “an” in each place where it occurs and inserting instead “the”.

Table

r. 24 (in the definitions of “committee” and “member”)
r. 44(b)
r. 46(1)

35. References to “certified mail” amended to “registered post”

The provisions in the Table to this regulation are amended by deleting “certified mail” in each place where it occurs and inserting instead “registered post”.

Table

r. 16(2)(a) and (c)	r. 70(2)
r. 45	r. 70(3)
r. 70(1)	

36. References to “Minister” amended to “Director-General”

The provisions in the Table to this regulation are amended by deleting “Minister” or “Minister’s” in each place where they occur and inserting instead respectively “Director-General” or “Director-General’s”.

Table

r. 59 (defn of “code of practice”)	r. 72(1) (2 places)
r. 60(1)	r. 72(2)
r. 61 (5 places)	r. 73(1)
r. 62	r. 73(2)
r. 63(1) (3 places)	r. 74 (in the 2 nd and 3 rd places)
r. 64	r. 75 (5 places)
r. 65	r. 76
r. 66	r. 77(1) (3 places)
r. 69 (3 places)	r. 77(2)
r. 70(1) (2 places)	r. 77(3) (2 places)
r. 70(2) (2 places)	r. 78(1)
r. 70(3) (2 places)	r. 80(1) (2 places)

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.