

ADOPTION OF CHILDREN.

No. 85 of 1980.

AN ACT to amend the Adoption of Children Act
1896-1979.

[Assented to 9 December 1980.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Adoption of Children Amendment Act 1980*.

Short title
and
citation.

(2) In this Act the Adoption of Children Act, 1896-1979 is referred to as the principal Act.

Approved for
reprint 19
December
1978 and
amended by
Act No. 67
of 1979.

(3) The principal Act as amended by this Act may be cited as the Adoption of Children Act 1896-1980.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 5D
inserted.

3. After section 5C of the principal Act, the following section is inserted—

Reduction
of period
of notice
and
dispensing
with notice.

“ 5D. A Judge may, on application by the person intending to make an application for an order of adoption—

(a) with respect to the period of notice required to be given pursuant to section 5B or section 5C of this Act, make an order on such terms as he thinks fit abridging the period of notice required to be given pursuant to that section;

(b) with respect to the notice required to be given pursuant to section 5C, make an order dispensing with the requirement to give notice pursuant to that section subject to such conditions (if any) as he may specify in the order,

and where a Judge so orders the period of notice required to be given or the notice, as the case requires, is, subject to compliance with the terms or conditions specified in the order (if any), reduced or dispensed with according to the terms of the order. ” .

Section 10
amended.

4. Section 10 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) Subject to subsection (1a) of this section, the surname to be conferred on the adopted child by an order of adoption shall be—

(a) where the adoption is by two adopting parents, the surname of the adopting father;

- (b) where the adoption is by one adopting parent and paragraph (c) of this subsection does not apply in relation to the adoption, the surname of the adopting parent;
- (c) where the adoption is made pursuant to subsection (4) of section 4 of this Act by one adopting parent who is the husband of the parent of the child, the surname of the husband of the parent of the child. ” ;

and

(b) by inserting the following subsection—

“ (1a) Where an application for an order of adoption—

- (a) is in respect of a child who has attained the age of twelve years; and
- (b) the application seeks to allow the child to continue to use the surname by which the child is known at the time of the making of the application for the order of adoption,

the Judge may order that the child be allowed to continue to use the surname by which the child is known at the time of the making of the application if it is established to the satisfaction of the Judge that—

- (c) the child consents to continue to be known by the surname by which he is known at the time of the making of the application for the order of adoption; and
- (d) in all the circumstances of the case in question to allow the child to continue to use the surname by

which the child is known at the time of the making of the application is for the welfare and in the best interests of the child. ” .

Section 15
amended.

5. Section 15 of the principal Act is amended in subsection (2) by deleting paragraph (b).

Section 16A
inserted.

6. After section 16 of the principal Act the following section is inserted—

Director to
have super-
vision of
certain
adopted
children.

“ 16A. (1) Subject to subsection (2) and subsection (3) of this section where—

- (a) a child is adopted in a country, other than New Zealand, outside the Commonwealth and the Territories of the Commonwealth, whether or not the adoption is an adoption that has, pursuant to this Act, the same effect as an adoption order under this Act;
- (b) the adoption in relation to the child has been in force for a period not exceeding twelve months;
- (c) every adoptive parent of the child was not at the time of the making of the order of adoption with respect to the child a national or a citizen of the country in which the order was made; and

(d) the child is present in this State, the Director may supervise the welfare and interests of the child for a period of twelve months commencing from the date of the arrival of the child in this State and any person authorised in writing by the Director for that purpose has a right of access to the child at all reasonable times during that period.

(2) Where a child whose welfare and interests may be supervised by the Director pursuant to subsection (1) of this section has, after being

adopted but before the arrival of the child in this State, been resident in any other State or in a Territory of the Commonwealth or in New Zealand the period during which the child is subject to the supervision of the Director is reduced proportionately to the period of such residence in that other State or Territory or in New Zealand.

(3) Notwithstanding subsection (1) of this section, the Director may at his discretion exempt any child to whom the provisions of that subsection would otherwise apply from the provisions of that subsection. ” .

7. After section 23 of the principal Act, the following section is inserted— Section 23A inserted.

“ 23A. Where a child is in this State and— Child not to be removed from State pending order of adoption.

(a) is, pursuant to section four H of this Act, under the guardianship of the Director; or

(b) is the subject of an application for an order for adoption under this Act,

a person shall not—

(c) take, send or remove the child from the State; or

(d) cause, aid or abet the taking, sending or removal of the child from the State,

without the written consent of the Director.

Penalty: \$400. ” .

8. After section 24A of the principal Act, the following section is inserted— Section 24B inserted.

“ 24B. (1) The Director may provide services assisting persons who desire to obtain an adoption under this Act. Assistance for an order for adoption.

(2) The Minister may, by order published in the *Gazette*, determine the charges to be paid in relation to services provided by the Director under subsection (1) of this section.

(3) An order under subsection (2) of this section may be revoked or varied by the Minister by a subsequent order published in the *Gazette*.

(4) Subject to any direction given by the Minister either generally or in a particular case, the Director may waive the payment of any charge payable pursuant to an order made under this section. " .
