

ADOPTION OF CHILDREN.

No. 112 of 1976.

AN ACT to amend the Adoption of Children Act, 1896-1973.

[Assented to 25th November, 1976.]

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 Act Amendment Act, 1976.* Short title and citation.

(2) In this Act the Adoption of Children Act, 1896-1973 is referred to as the principal Act. Reprinted as approved for reprint 8th Feb., 1973 and amended by Act No. 49 of 1973.

(3) The principal Act as amended by this Act may be cited as the Adoption of Children Act, 1896-1976.

Commence-
ment.

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

Section 2
amended.

3. Section 2 of the principal Act is amended—

(a) as to the interpretation “child”, by adding after the word “sought” at the end of the interpretation the words “or has been made”;

(b) by adding after the interpretation “order of adoption” the following interpretation—

“Registrar General” means the person appointed Registrar General under the Registration of Births, Deaths and Marriages Act, 1961, and includes any person appointed to be Deputy Registrar General under that Act; ; and

(c) as to the interpretation “relative”, by deleting the words “an illegitimate person” in lines six and seven and substituting the passage “a person whose parents were not married to each other at the time of his birth or subsequently,”.

Section 4
amended.

4. Section 4 of the principal Act is amended—

(a) as to subsection (1), by deleting the passage “subsection (2) of”; and

(b) by repealing subsection (4) and substituting the following subsection—

(4) A Judge may make an order of adoption in favour of a spouse of a person who is the natural parent of a child or who is the parent of a child by adoption or both the spouse and that person jointly. .

5. Section 4A of the principal Act is amended— Section 4A amended.

- (a) as to subsection (2), by deleting the words “legitimate child who has not previously been adopted” in lines one and two and substituting the passage “child other than a child referred to in subsection (3) or subsection (4) of this section”; and
- (b) as to subsection (3), by deleting the words “an illegitimate child who has not been previously adopted” in lines one and two and substituting the words “a child whose parents were not married to each other at the time of his birth or subsequently and who has not been previously adopted”.

6. Section 4B of the principal Act is amended by adding after subsection (2) the following subsection— Section 4B amended.

(2a) Where a consent is given to the adoption of a child—

(a) by a person who is the spouse of—

(i) a natural parent of the child;
or

(ii) a parent of the child by adoption; or

(b) by two persons one of whom is a natural parent of the child or a parent of the child by adoption,

the consent shall be construed as a consent to the adoption of the child by that person or those persons only. .

7. Subsection (2) of section 4F of the principal Act is amended by adding after the passage “child”, in line six the passage “or, if the instrument of consent is given pursuant to the law of another State or Territory of the Commonwealth and the law of that State or Territory prescribes another period then within that other period,”. Section 4F amended.

Section 7
amended.

8. Subsection (1) of section 7 of the principal Act is amended by deleting the passage "effect." in the last line and substituting the following passage—

effect,

but where an order is made pursuant to subsection (4) of section four of this Act in favour only of a spouse of a person referred to in that subsection that spouse is a parent of the child jointly with that person as if the child had been born to them in lawful wedlock and notwithstanding anything in paragraphs (a) to (e) (both inclusive) of this subsection—

- (f) the child does not cease to be a child of that person and that person does not cease to be a parent of the child;
- (g) the relationship between the child and that person is not determined;
- (h) if the child were the adopted child of that person, the order does not have the effect of terminating the adoption. .

Section 10
amended.

9. Section 10 of the principal Act is amended—

- (a) by adding after the section designation "10." the subsection designation "(1)";
- (b) by deleting the article "The" in line one and substituting the passage "Subject to subsection (2) of this section, the"; and
- (c) by adding a new subsection as follows—

(2) Where—

- (a) a child the subject of an application for an order of adoption has attained the age of twelve years; and

- (b) the application seeks an order to confer on the child a name (commonly known as a Christian name) other than the name by which the child is known immediately before the making of the order,

the Judge shall not make an order conferring that other name on the child unless he is satisfied that the child agrees to be known by that other name. .

10. Section 21 of the principal Act is repealed and re-enacted as follows—

Section 21
repealed and
re-enacted.

21. A person who uses or threatens to use any force or restraint, or does or threatens to do any injury, or causes or threatens to cause any detriment of any kind to another person, with a view to inducing that other person—

Undue
influence.

- (a) to offer or refrain from offering a child for adoption under this Act; or
- (b) to revoke an instrument of consent for the adoption of a child under this Act, is guilty of an offence.

Penalty: Four hundred dollars or imprisonment for six months. .

11. Subsection (1) of section 23 of the principal Act is repealed and the following subsection substituted—

Section 23
amended.

(1) A person who, without the written consent of the Director—

- (a) transfers or causes to be transferred the possession, custody or control of a child to some other person or persons with a view to the adoption of the child by that person or those persons; or

(b) receives the possession, custody or control of a child with a view to the adoption of the child,

is guilty of an offence against this Act.

Penalty: Four hundred dollars or imprisonment for six months. .
