

1991—No. 349

**ADOPTION INFORMATION ACT 1990—REGULATION**

(Relating to prescribed information)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Adoption Information Act 1990, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD

Minister for Health and Community Services.

The Adoption information Regulation 1991 is amended:

- (a) by inserting in clause 3, in alphabetical order, the following definition:
  - “**document**” includes:
    - (a) any paper or other material on which there is writing or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them; and
    - (b) any disc, tape or other article from which sounds, images or messages are capable of being reproduced;
- (b) by inserting in clause 5 (a) after the words “• date of birth” the following words:
  - place of birth
- (c) by omitting from clause 5 (a) the words “• birth certificate”;
- (d) by omitting from clauses 5 and 6 the word “education” wherever occurring and by inserting instead the words “level of education”;
- (e) by omitting from clauses 5 (a) and 6 (a) the words “length and nature of relationship” wherever occurring and by inserting instead the words “length and status of relationship”;

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- (f) by inserting in clauses 5 and 7 (a) after the words “• date of adoption order” wherever occurring the following words:
- copy of adoption order
- (g) by omitting from clauses 5 (a) and 7 (a) the words “(not being information referred to in clause 14)” wherever occurring and by inserting instead the words “(being information referred to in clause 14)”;
- (h) by omitting from clause 5 (a) the words “copies of medical reports of examinations of the adopted person made when the child was in the custody of birth parent (excluding any information that could be used to identify the birth parent)” and by inserting instead the words “copies of medical reports of examinations of the adopted person made when the child was in the custody of birth parent”;
- (i) by omitting from clause 5 (a) the following words:
- uncles);
  - last known name and address (not being information referred to in clause 14)
  - age
- and by inserting instead the word “uncles):”;
- (j) by inserting in clause 5 (b) after the words “• adoptive name” the following words:
- date of birth
  - place of birth
- (k) by omitting from clause 5 (a) the words “• photographs and other documents given to the information source by a birth parent for the adopted person if a release is given in accordance with clause 15” and by inserting instead the following words:
- the following information concerning parents (that is, the adopted person’s grandparents):
    - age at the time of birth of the adopted person whether alive or deceased
  - the following information concerning brothers and sisters (that is, the adopted person’s aunts and uncles):
    - number of brothers and sisters
    - age at the time of birth of the adopted person
    - whether alive or deceased
  - photographs and other documents and messages given to the information source by a birth parent for the adopted person if clause 15 is complied with;

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- (l) by inserting in clauses 6 (a) and 7 (a) after the words “photographs and other documents” wherever occurring the words “and messages”;
- (m) by omitting from clauses 6 (a) and 7 (a) the words “if a release is given in accordance with clause 15” wherever occurring and by inserting instead the words “if clause 15 is complied with”;
- (n) by inserting at the end of clause 7 the following subclause:
  - (2) Information relating to the health and welfare of an adopted person after placement for adoption is prescribed information for the purposes of subclause (1) (a) only if:
    - (a) the information source holding the information is the Department of Community Services or a private adoption agency; or
    - (b) the information source holding the information has obtained the consent of the adopted person to the supply of the information to his or her birth parent.
- (o) by omitting from clause 9 the following words:
  - date of placement for adoption
  - date of adoption
  - copies of medical reports of examinations of the adopted person conducted before placement for adoption (excluding any information that could be used to identify a birth parent of the adopted person)
- (p) by omitting clause 14 and by inserting instead the following clause:

**Information as to “last known name and address”**

14. The last known name and address of a person held by an information source is prescribed information only if:

- (a) the information was obtained by the information source before the person was placed for adoption, on placement of the person for adoption or from or in connection with the making of the adoption order in relation to the person; or
- (b) the person concerned has consented in writing to the supply of the name and address to the person seeking the information; or
- (c) the person concerned has entered his or her name on the Reunion Information Register.

- (q) by omitting clause 15 and by inserting instead the following clause:

**Photographs and other documents and messages**

15. (1) A photograph or other document, or a message, referred to in clause 5 (a), 6 (a) or 7 (1) (a) that is given to an information source after the Commencement of this clause for an adopted person or birth parent is not prescribed information unless the person giving the photograph, document or message to the information source has signed a release (in a form approved by the Director-General) consenting to the supply of all such photographs, documents or messages.

(2) A release signed by the person giving a photograph, document or message to the information source is not required if the person:

- (a) is dead; or
- (b) cannot, after due search and inquiry, be found; or
- (c) is, in the opinion of the Director-General, incapable of giving consent.

(3) A photograph or other document, or a message, referred to in clause 5 (a), 6 (a) or 7 (1) (a) that is given to an information source before the commencement of this clause for an adopted person or birth parent is not prescribed information unless, in the opinion of the Director-General, the records of the information source concerned clearly indicate that the person intended the photograph, document or message to be supplied to the adopted person or birth parent.

- (r) by inserting at the end of clause 16 (1) (b) the following word and paragraph:

; and

- (c) if a message has been left for the applicant by the person who objects to contact, a copy of the message.

- (s) by inserting after clause 16 (2) the following subclause:

(3) The Director-General is not to supply any information under this clause if, in the opinion of the Director-General, the information could be used to identify the person who objects to contact or a parent, brother or sister of that person, except with the consent of the person.

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**EXPLANATORY NOTE**

The object of this Regulation is to amend the Adoption Information Regulation 1991:

- (a) to make it clear that references to “document” in clauses 5–7 of the Regulation include things such as tape recordings (paragraph (a)); and
- (b) to include with the categories of prescribed information which an adopted person is entitled to receive information held by an information source covering the place of birth of a birth parent (paragraph (b)), the age of grandparents and aunts and uncles and whether or not they are living or deceased (paragraph (k)) and the date and place of birth of an adopted brother and sister of an adopted person who is 18 or more years old (paragraph (j)); and
- (c) to omit from the categories of prescribed information which an adopted person is entitled to receive information held by an information source covering the birth certificate of a birth parent and the age and last known name and address of the adopted person’s grandparents, aunts and uncles (paragraphs (c) and (i)); and
- (d) to make it clear that the category of prescribed information as to education relates to the level of education and not to details such as the school where a person was educated (paragraph (d)); and
- (e) to make it clear that prescribed information concerning the nature of the relationship of an adopted person’s birth parents is information relating to the status of the relationship, not the quality of the relationship (paragraph (e)); and
- (f) to include within the categories of prescribed information copies of adoption orders (paragraph (f)); and
- (g) to include within the categories of prescribed information messages left for an adopted person or birth parent (paragraph (i)); and
- (h) to protect the privacy of an adopted person who is 18 or more years old by limiting the category of prescribed information relating to his or her health and welfare after placement for adoption to information held by the Department of Community Services or a private adoption agency or supplied with the consent of the adopted person (paragraph (n)); and
- (i) to limit the category of prescribed information relating to the last known name and address of a person to information obtained up to and including the time when an adoption order was made, information supplied with the consent of the person concerned and information available because the person concerned has entered his or her name on the Reunion Information Register (paragraph (p)); and
- (j) to enable photographs and other documents, and messages, given to an information source for an adopted person or birth parent to be supplied in certain cases without the necessity for the person who gave them to have signed a release (for example, if the release cannot be obtained because the person is dead or if a message has been left with a source at some time in the past with the clear intention that it be given to the adopted person) (paragraph (q)); and

- (k) to enable a person objecting to contact with another person to leave a message for supply to that person (paragraphs (r) and (s)); and
  - (l) to remove provisions which duplicate or are inconsistent with other provisions of the Regulation.
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