

LEGISLATIVE ASSEMBLY

Read 1° 24 April 1991

(Brought in by Mrs Setches and Mr Kennan)

(No. 2)

A BILL

(to amend the **Adoption Act 1984** and for other purposes.)

Adoption (Amendment) Act 1991

The Parliament of Victoria enacts as follows:

1. Purpose

5 The purpose of this Act is to make the Director-General of the Department of Community Services guardian of non-citizen children who arrive in Victoria for the purpose of adoption in Victoria and to remove references to the guardian or his or her delegate under the Immigration (Guardianship of Children) Act 1946 of the Commonwealth.

10 **2. Commencement**

This Act comes into operation on a day to be proclaimed.

3. Principal Act

In this Act, the **Adoption Act 1984** is called the Principal Act.

Section headings appear in bold italics and are not part of the Act (see **Interpretation of Legislation Act 1984**).

No. 10150.
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N . 67/1987
and
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am nd d by
N s 56/1989,
57/1989 and
69/1989.

4. *Non-citizen child*

In section 4 (1) of the Principal Act, for the definition of “non-citizen child” **substitute—**

‘ “**Non-citizen child**” means a person who—

- (a) is under the age of 18 years; and 5
- (b) enters Australia, not being an Australian citizen; and
- (c) intends to become, or is intended to become, an Australian citizen—

but does not include a person who enters Australia in the charge of, or for the purpose of living in Australia under the care of, a parent of the person, or a relative of the person not less than 21 years of age.’ 10

5. *Consent required to adoption*

(1) For section 33 (6) of the Principal Act **substitute—** 15
“(6) In the case of a child who is a non-citizen child, the appropriate person is the Director-General.”.

(2) In section 36 of the Principal Act—
(a) for “a person who is a guardian, or the delegate of a guardian,” **substitute** “the Director-General as guardian”; and 20
(b) for “person” (where secondly and thirdly occurring) **substitute** “Director-General”.

6. *New section 47 inserted*

For section 47 of the Principal Act **substitute—** 25

“47. *Guardianship of non-citizen child*

If a non-citizen child is present in Victoria and—

- (a) the Director-General or an approved agency is authorised to make arrangements with a view to the adoption of the child in Victoria; or 30

(b) application will be made in another State or a Territory under provisions corresponding with this Act for the adoption of the child—

5 the Director-General shall be the guardian of the child for all purposes to the exclusion of all other persons and shall cease to be the guardian in the same manner as the Director-General would
10 cease to be a guardian of a child under section 46.”.

7. *Restriction on publication*

In section 121 (5) of the Principal Act—

(a) omit paragraph (c); and

(b) omit “or” immediately preceding paragraph (c).

15 **8. *Transitional***

The Principal Act as amended by this Act applies to non-citizen children present in Victoria on or after the commencement of this Act.

