



Family Law (Bilateral Arrangements— Intercountry Adoption) Regulations 1998

Statutory Rules No. 248, 1998 as amended

made under the

Family Law Act 1975

Compilation start date: 28 June 2014

Includes amendments up to: SLI No. 93, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 1998* as in force on 28 June 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 30 June 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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1 Name of Regulations

These Regulations are the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 1998*.

2 Commencement

These Regulations commence on the same date that item 4 in Schedule 1 of the *Family Law Amendment Act (No. 1) 1998* commences.

3 Definitions

In these Regulations:

Act means the *Family Law Act 1975*.

adoption compliance certificate: see paragraph 5(1)(d).

child means an individual who is under 18 years.

competent authority means:

- (a) for a prescribed overseas jurisdiction—a person, body or office in the jurisdiction responsible for approving the adoption of children; and
- (b) for the State in which the person adopting the child habitually resides—a person, body or office in the State's jurisdiction responsible for approving the adoption of children.

parental responsibility, in relation to a child, has the same meaning as in section 61B of the Act.

prescribed overseas jurisdiction means an overseas jurisdiction mentioned in Schedule 1.

State includes Territory.

Note Subsection 111C(8) of the Act provides that, for section 111C of the Act, *Territory* includes an external Territory.

4 Prescribed overseas jurisdictions

For subsection 111C(3) of the Act, the overseas jurisdictions mentioned in Schedule 1 are prescribed.

5 Australian adoption in a prescribed overseas jurisdiction of a child from that overseas jurisdiction

- (1) This regulation applies to an adoption of a child in a prescribed overseas jurisdiction (including an adoption that took place in the overseas jurisdiction before the overseas jurisdiction was prescribed under regulation 4) if:
 - (a) at the time of the adoption, the child was habitually resident in the overseas jurisdiction; and
 - (b) the adoption was by a person habitually resident in a State of Australia; and
 - (c) the competent authority of that State has agreed that the adoption may proceed; and
 - (d) a certificate (an *adoption compliance certificate*) is in force in relation to the adoption that:
 - (i) was issued by a competent authority of the overseas jurisdiction; and
 - (ii) states that the adoption was carried out in accordance with the laws of the overseas jurisdiction; and
 - (e) the adoption has the effect of ending the legal relationship between the child and each person who was, immediately before the adoption, the child's parent; and
 - (f) an Australian court has not made:
 - (i) an adoption order in relation to the child; or
 - (ii) an order recognising or declaring the overseas adoption to be valid.
- (2) The adoption is recognised and effective, for the laws of the Commonwealth and each State, on and after the date of effect of the adoption in the prescribed overseas jurisdiction.
- (3) If the date of effect of the adoption in the prescribed overseas jurisdiction was before the commencement of this regulation, the

adoption is taken to have been recognised and effective, for the laws of the Commonwealth and each State, on and after the date of effect of the adoption.

Note: For the application of these Regulations to a State, see regulation 8.

6 Effect of recognition of an adoption

Recognition of the adoption of a child includes the recognition, for the laws of the Commonwealth and each State, that, under those laws:

- (a) the relationship between the child and each of the child's adoptive parents is the relationship of child and parent; and
- (b) each adoptive parent of the child has parental responsibility for the child; and
- (c) the adoption of the child ends the legal relationship between the child and the individuals who were, immediately before the adoption, the child's parents; and
- (d) the child has the same rights as a child who is adopted under the laws of a State.

7 Evidential value of adoption certificate

An adoption compliance certificate is evidence, for the laws of the Commonwealth and each State, that the adoption to which the certificate relates was carried out in accordance with the laws of the overseas jurisdiction whose competent authority issued the certificate.

8 Application

- (1) A provision of these Regulations does not apply to a State in which there is in force a law (an *overseas jurisdiction adoption law*) having the same effect as, or comparable effect to, that which the provision would, except for this regulation, have for the adoption.
- (2) Nothing in these Regulations affects:
 - (a) the jurisdiction of a court of the Commonwealth or a State, or the power of an authority, under an overseas jurisdiction adoption law, to entertain proceedings, make an order or

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- take any other action in relation to an overseas jurisdiction adoption; or
- (b) any such order or action; or
 - (c) the operation, within a State, of an overseas jurisdiction adoption law of the State.

Schedule 1—Prescribed overseas jurisdictions

Note: See regulation 4.

Prescribed overseas jurisdictions	
Item	Prescribed overseas jurisdiction
1	Federal Democratic Republic of Ethiopia
2	Republic of Korea
3	Taiwan

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law, but the text of the amendments is included in endnote 5.

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnotes

Endnote 2—Abbreviation key

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ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
248, 1998	6 Aug 1998	14 July 1998 (<i>see</i> r 2)	
7, 2014	3 Mar 2014 (<i>see</i> F2014L00213)	4 Mar 2014	—
93, 2014	27 June 2014 (<i>see</i> F2014L00857)	28 June 2014	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
r 3.....	am No 7, 2014
r 5.....	am No 7, 2014
	rs No 93, 2014
Sch 1	
Sch 1.....	rs No 7, 2014

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]