



Tab D

ADOPTION REGULATIONS 2008 (SR NO 10 OF 2008) Victoria REG 35

Requirements to be satisfied by applicants for adoption of a child

For the purposes of section 15(1) (a) of the Act, the prescribed requirements are—
the health of the applicants, including emotional, physical and mental health, is suitable;

the age and maturity of the applicants are suitable;

the applicants have suitable skills and life experience;

the applicants' financial circumstances are suitable;

the applicants have the capacity to provide a stable, secure and beneficial emotional and physical environment during a child's upbringing until the child reaches social and emotional independence;

the applicants have the capacity to provide appropriate support to the maintenance of a child's cultural identity and religious faith (if any);

the applicants have a suitable appreciation of the importance of—

- (i) contact with a child's birth parent and family; and
- (ii) exchange of information about the child with the child's birth parent and family;

the general stability of character of the applicants is suitable and the criminal history (if any) of the applicants does not make the applicants unsuitable;

the stability and quality of the applicants' relationship with each other, and between them and the other household and family members, is suitable;

the criminal history (if any) of the household members does not make the applicants unsuitable;

if the applicants have had the care of a child before applying for approval as fit and proper persons to adopt a child, the applicants have shown an ability to provide a stable, secure and beneficial emotional and physical environment for the child.

Proposed amendment to Adoption Regulations 2003 NSW

[3] Clause 12

Omit the clause. Insert instead:

12 Criteria for assessment of applicants

For the purposes of section 45 (1) (a) of the Act, the relevant decision-maker is to have regard to the following matters when assessing the suitability of a person to be approved to adopt, and in the selection of a person to adopt, a child under the Act:

- (a) the person's health, including emotional, physical and mental health,
- (b) the person's age and maturity,
- (c) the person's skills and life experience, in relation to the person's ability to undertake parenting tasks and attend to the specific needs of an adopted child,
- (d) the person's capacity to provide a stable, secure and beneficial emotional and physical environment during the child's upbringing until the child reaches social and emotional independence,
- (e) the person's financial circumstances, in relation to the person's capacity to adequately provide for the child's needs,

- (f) the person's capacity to support the maintenance of the child's cultural identity and religious faith (if any),
- (g) the person's appreciation of the importance of and capacity to facilitate:
 - (i) contact with the child's birth parents and family, and
 - (ii) exchange of information about the child with the child's birth parents and family,
- (h) the general stability of the person's character and the person's criminal history (if any),
- (i) the stability and quality of the person's relationship with his or her spouse (if any) and between the person, his or her spouse (if any) and other members of the person's family and household,
- (j) the criminal history (if any) of the members of the person's household,
- (k) if the person has had the care of a child before the application, whether the person has shown an ability to provide a stable, secure and beneficial emotional and physical environment for the child

Initial instructions provided to the Office of Parliamentary Counsel

Recommendation (iii): Eligibility and assessment criteria for adoptive parents should be less prescriptive and focus on factors that affect parenting capacity. The criteria should also be included in the Adoption Regulation 2003.

The eligibility criteria for who can adopt, is set out in sections 26 to 28 of the Act, with additional requirements for step parent and relative adoptions being prescribed by section 29 and 30. By section 45, the regulations may make provision for the assessment of the suitability of persons to be approved to adopt under the Act. However, the criteria for assessment of applicants, is not set out in the *Adoption Regulation 2003* but rather, by clause 12 it is a requirement that the criteria be published in the Gazette.

To provide for transparency and certainty as to the assessment criterion for applicants, please amend the *Adoption Regulation 2003*, by deleting and replacing clause 12, with a new provision which sets out the prescribed criteria for assessment of applicants. The assessment criteria to be incorporated into the Regulation is that contained in Victoria's *Adoption Regulations 2008 – Reg 35* (Cabinet Minute - Attachment E).