

Chapter 10

Adoption



CONTENTS

- 105 CURRENT LAW
- 106 PROBLEMS WITH THE LAW
- 107 RECOMMENDATIONS
- 109 INTERCOUNTRY ADOPTION

10

Chapter 10

Adoption



In 2005–06 there were 17 infant adoptions in Victoria.

In the previous chapters we discussed the use of assisted reproductive technology in the creation of families where conception does not occur as a result of heterosexual intercourse. Adoption of children is also a means of family formation. The terms of reference for this project ask the commission to enquire into and report on the desirability and feasibility of changes to the *Adoption Act 1984* to expand eligibility criteria.

In Chapter 11, we explain the legal effect of adoption and discuss the developments in law and policy that have been implemented to avoid some of the negative consequences of adoption for parents and children.

In this chapter we identify the forms of adoption that exist and examine their eligibility criteria.

INFANT ADOPTION

Infant adoption is the adoption of a young child by a couple or individual who has no relationship to the child or the child's birth parents. The primary purpose of infant adoption is to provide a stable family for a child in need, rather than to meet the need or desire of an adult for a child.¹ The children are usually aged between two months and one year. Infant adoption is relatively rare today because birth parents are encouraged to explore alternatives to adoption such as permanent care arrangements, which preserve their legal relationship with the child. In 2005–06 there were 17 infant adoptions in Victoria.²

PERMANENT CARE ORDERS

If a child is unable to remain living with his or her birth parents, the Children's Court can make a permanent care order to grant custody and guardianship of the child to other caregivers, to the exclusion of all others.³ Permanent care orders last until the child turns 18 and do not transfer full legal parental status to the caregivers. They must include conditions that the court considers to be in the interests of the child concerning access by the child's parent(s).

SPECIAL NEEDS PLACEMENTS

Special needs adoption occurs when a child has a specific disability or health condition or there are concerns about his or her development. Most children with special needs who are referred to adoption agencies are placed in permanent care arrangements and only a very small number are adopted. In 2005–06 there were 64 adoptions and permanent care placements of children with special needs in Victoria.⁴

STEP-PARENT AND RELATIVE ADOPTION

Step-parent adoption is the adoption of the child by a heterosexual partner of one of the child's birth parents. Step-parent adoption extinguishes the legal relationship between the child and one of his or her birth parents, but not the other.

Step-parent adoption is generally discouraged because it permanently severs the legal relationship between the child and an existing parent and other family members, and may be used as a means to exclude the child's extended family from his or her life.⁵ To make an adoption order in favour of a step-parent, the court must be satisfied that exceptional circumstances exist and that a parenting order from the Family Court would be inadequate for the care of the child.⁶ Examples of exceptional circumstances are where a child's birth parent has died, there is a history of violence between the child's parents, or where the child was conceived by rape.⁷

Step-parents may apply to the Family Court for leave to lodge an adoption application in the County Court.⁸ If the Family Court does not grant leave, the child will continue to be regarded by the court as the child of both birth parents and their parental responsibilities under the Family Law Act will persist, regardless of any adoption order made by the County Court.⁹

In 2005–06 there were 10 step-parent adoptions in Victoria.¹⁰

Relative adoption is the adoption of the child by a relative who is not the child's mother or father, for example a grandparent or a sister. Relative adoption is now discouraged because it is regarded as potentially distorting the relationships in a child's family (for example, if adopted by a sister, the sister would become the child's legal mother), but it remains technically possible where exceptional circumstances exist.¹¹

CURRENT LAW

ADOPTION

There are extensive laws, regulations, standards and procedures that govern adoption of children in Victoria. The United Nations *Convention on the Rights of the Child* requires signatories to ensure that the best interests of the child are the paramount consideration in adoption.¹² This principle is enshrined in the Adoption Act.¹³

National standards and principles have been developed to guide the provision of adoption services. The National Principles in Adoption 1997 incorporate obligations that arise under the *Convention on the Rights of the Child* and the *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (the Hague Convention),¹⁴ to which Australia is a signatory. They contain policies which recognise the needs of children, parents and applicants involved in adoption. The Standards in Adoption 1986 define and describe an accepted level of practice in the provision of adoption services.

The Adoption Act and Adoption Regulations 1998 set out the legislative requirements which must be met by people applying to adopt children and prescribe the procedures which must be followed for each adoption, from obtaining consent from the birth parents to obtaining an adoption order from the court. The Act also establishes the Adoption Information Service and enables parents and children to obtain information about each other.¹⁵

The Department of Human Services produces the *Adoption and Permanent Care Procedures Manual*, which provides extensive guidance to agencies handling referrals of children for adoption and/or permanent care and applications by prospective adoptive parents.¹⁶ The manual covers issues such as counselling of birth parents; the recruitment, preparation and education of applicants; linking of applicants and children; supervision of placements; access arrangements and post-placement support.

The Adoption Act prescribes the categories of people in whose favour adoption orders may be made. An order may be made in favour of a man and a woman who have been married or in a stable de facto relationship for at least two years.¹⁷ A de facto relationship is defined as a 'relationship of a man and a woman who

are living together as husband and wife on a genuine domestic basis, although not married to each other'.¹⁸ An adoption order can therefore not be made in favour of a same-sex couple.

Single applicants can adopt if the court is satisfied that special circumstances exist which make adoption by that person desirable.¹⁹ A brochure produced by the Department of Human Services states that this generally applies to children with special needs.²⁰

Adoption applicants must be approved as fit and proper persons to adopt a child by the Department of Human Services or the principal officer of an approved adoption agency.²¹ Applicants must meet the following criteria:

- (a) *The personality, age, emotional, physical and mental health, maturity, financial circumstances, general stability of character and the stability and quality of the relationship between the applicants and between the applicants and other family members are such that he or she has the capacity to provide a secure and beneficial emotional and physical environment during a child's upbringing until the child reaches social and emotional independence.*
- (b) *If an applicant has had the care of a child before applying for approval as a fit and proper person to adopt a child, he or she has shown an ability to provide such an environment for the child.*²²

Adoption orders are made by the County Court.

PERMANENT CARE ORDERS

The above eligibility criteria only apply to adoptions. In the case of applications for permanent care orders, the Department of Human Services must have approved the applicant as suitable and the Children's Court must be satisfied that the person or people named in the application are suitable to have custody and guardianship of the child.²³ In making this decision, the court is required to have regard to the following matters:

- (a) *the personality, age, health, marital and family relationships, emotional maturity, financial circumstances and general stability of character of each person named in the application as suitable to have custody and guardianship of the child; and*

- 1 The principle that adoption is a service for children is articulated in the *National Principles in Adoption* (1997) and Department of Human Services, *Standards in Adoption* (1986) and *Adoption and Permanent Care Information Kit* (2006), <www.office-for-children.vic.gov.au> at 8 February 2007.
- 2 Department of Human Services (2006), above n 1, 12.
- 3 *Children and Young Persons Act 1989* s 112.
- 4 Department of Human Services (2006), above n 1, 12.
- 5 See Community Care Division, Victorian Department of Human Services, *Stepchildren and Adoption* (2001), Department of Human Services, *Adoption and Permanent Care Procedures Manual* (2004), 130; Family Law Council Australia, *Cinderella Revisited: Rights and Responsibilities in Step-Families: Report of the Step-Families Sub-Committee* (1986).
- 6 *Adoption Act 1984* ss 11(6), 12.
- 7 Department of Human Services (2004), above n 5, 134.
- 8 *Family Law Act 1975* (Cth) s 60G.
- 9 *Family Law Act 1975* (Cth) s 61E.
- 10 Information provided to the Victorian Law Reform Commission by Department of Human Services, 8 February 2007.
- 11 Department of Human Services (2004), above n 5, 130.
- 12 *Convention on the Rights of the Child*, UN GAOR, 44th sess, UN Doc A/44/736 (1990) art 21.
- 13 *Adoption Act 1984* s 9.
- 14 *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*, concluded 29 May 1993 (entered into force 1 May 1995), signed by Australia 25 August 1998 (entry into force 1 December 1998).
- 15 *Adoption Act 1984* pt 6.
- 16 Department of Human Services (2004), above n 5.
- 17 *Adoption Act 1984* s 11(1).
- 18 *Adoption Act 1984* s 4.
- 19 *Adoption Act 1984* s 11(3).
- 20 Department of Human Services, *Infant Adoption* (2005).
- 21 *Adoption Act 1984* s 13(1).
- 22 *Adoption Regulations 1998* r 35.
- 23 *Children and Young Persons Act 1989* s 112.

RECOMMENDATIONS

67. The *Adoption Act 1984* should be amended to allow the County Court to make adoption orders in favour of same-sex couples.

- (b) *the capacity of each person so named in the application to provide a secure and beneficial, emotional and physical environment for the child's upbringing until the child reaches social and emotional independence; and*
- (c) *if a person so named in the application had the care of the child before applying to the Court, the ability of that person to provide such an environment for the child; and*
- (d) *the compatibility between the religion, race or ethnic background of each person so named in the application and the child; and*
- (e) *the understanding by each person so named in the application of the importance of access by the child's parents and exchange of information concerning the child.*²⁴

There is no prohibition on an individual or couple in a same-sex relationship becoming the carer of a child under a permanent care order.

PROBLEMS WITH THE LAW

Because the pool of eligible applicants for adoption is restricted to heterosexual couples, a child in need may potentially be deprived of the opportunity to be placed with the most suitable carers. The commission believes that this restriction is contrary to one of the assumptions articulated in the Standards in Adoption document that: 'It is in the best interests of children to have the maximum range of prospective adoptive parents available'.²⁵

Although there are many more people who apply to adopt than children who are referred to adoption agencies, the process of linking children with applicants is complex and there is no guarantee that a suitable couple will be found for a particular child.

Some same-sex couples act as foster parents and permanent carers to children who are unable to live permanently with their birth parents. The commission received a submission from a gay man who has been a foster carer of two boys for over five years. In his submission, the man describes how the boys chose to live with him and his partner:

The boys had a number of options about where they could live and were told that we were gay prior to meeting us. We wanted them to be told, so they could make the decision about whether they wanted to live with a gay couple. Before making their decision about living with us they met us and came and saw our house and our dogs and cats. We told them that if they had any questions about our being gay they could just ask, it wasn't something they should be fearful of or continue to wonder about if they had any questions. Our being gay was not a major concern for them, although they did have some questions that we were willing to answer from the outset. I suspect their decision in the end was based on the merits of us as a couple and what we could provide for them as a family unit.

*Through fostering I have learnt a lot about the experiences of children being brought up by a gay couple. From talking to the boys I can tell that it has been a positive experience for them. The fact that the 19 year old has chosen to stay living with us even though he is no longer considered to be a foster child suggests that it's a positive experience for him.*²⁶

The man also provided the commission with an extract from the book *Boys' Stuff: Boys Talking about What Matters* in which the boys had made some comments about what it was like living with a gay couple. One of the boys, then aged 14, said:

*I was a bit homophobic in primary school. Then we met Brett and Ian and that helped a fair bit. Brett and Ian make me feel like I'm really special and it makes me feel good. They're kind of like role models. They tell me, 'Be yourself, believe in yourself and try not to pollute the earth'.*²⁷

This submission describes a positive outcome for two children in need who found a stable family environment through foster care. However, even if the children had wanted their relationship with their carers formalised through adoption, this would not have been possible under the current law.

It makes no sense that people in same-sex relationships are able to be approved as permanent and short-term carers of children in need, but cannot assume the full range of legal parental powers and responsibilities for those children.

RECOMMENDATIONS

SAME-SEX COUPLE ADOPTION

In Chapter 2, the commission explains why it does not believe that parenting by same-sex couples or single people is in itself harmful to children. However we acknowledge that some people in the community are opposed to children being adopted by same-sex couples. One submission, for example, stated:

*We believe that the present law should be kept, particularly in light of the fact that there are more heterosexual couples wanting to adopt than there are babies. Adoption by these couples will give the babies the experience of both a mother and a father.*²⁸

Based on the available research on outcomes for children in a range of diverse families, the commission is unable to conclude that prohibiting same-sex couples from adopting children is justified according to the principle of the best interests of the child.

The commission therefore recommends that the eligibility criteria in the Adoption Act be expanded to permit same-sex couples to adopt children in all circumstances in which heterosexual couples can.

Adoption by same-sex couples is already permitted in Western Australia, Tasmania, the ACT and several states of the United States.²⁹ At the time of writing, one same-sex couple had applied and been approved to adopt and one same-sex partner had successfully applied for a carer's adoption order in Western Australia.³⁰ So far, no applications for adoption have been made by same-sex couples in the ACT³¹ or in Tasmania.³² Same-sex couples in Tasmania became eligible to apply to adopt in January

2007. This is because a couple must have been in a registered relationship for three years before an adoption order can be made in their favour, and registration only became possible in January 2004.³³

In its submission in response to the Consultation Paper, the Victorian Standing Committee on Adoption and Alternative Families emphasised the importance of placing the best interests of the child at the centre of any decision about adoption. They stressed the need to consider whether adoption is an appropriate option for the child.³⁴ As to the eligibility of same-sex couples to adopt children, the committee stated: 'Relationship issues of the parents should not be the object of any eligibility requirements, only the rights of the child'.³⁵

The distinction between sexuality and other factors was also identified in another submission:

*It seems ridiculous to me that single people and gay couples can't adopt needy children. We need more families willing to be assessed for adoption eligibility and it is quite silly that sexuality excludes us. The things that should exclude prospective adoptive parents are things like criminal history, inadequate housing, history of abuse of children and inability to parent adequately.*³⁶

Helen Kane, a social worker who has had extensive experience with individuals and families affected by adoption, supported the capacity for same-sex couples to apply to adopt, but also pointed out that applications by same-sex couples should not receive any special consideration. She argued for 'a level-playing field for all applicants, regardless of their sexual orientation, when considered in relation to their ability to meet the needs of a particular child'.³⁷

- 24 Children and Young Persons (General) Regulations 2001 r 8.
- 25 Department of Human Services, *Standards in Adoption* (1986) [4.1.1(v)].
- 26 Submission CP 59 (Ian Seal).
- 27 Wayne Martino and Maria Pallotta-Chiarolli, *Boys' Stuff: Boys Talking About What Matters* (2001), 154.
- 28 Submission PP2 259 (Nevil & Gloria Knell).
- 29 John Seymour and Sonia Magri, *ART, Surrogacy and Legal Parentage: A Comparative Legislative Review* (2004), 56–7.
- 30 Emails received from Adoption Service, Department for Community Development (WA), 16 and 17 August 2006. The *Adoption Act 1994* (WA) permits adoption of a child by a person who 'has had, for at least 3 years, the daily care and control of the child and the responsibility for making decisions concerning the daily care and control of the child': ss 4, 67.
- 31 Email received from Client Services, Office for Children, Youth and Family Support (ACT), 25 July 2006.
- 32 Email received from Department of Health and Human Services (Tas), 21 July 2006.
- 33 See *Relationships Act 2003* (Tas), *Adoption Act 1988* (Tas) s 20.
- 34 Submission CP 77 (Victorian Standing Committee on Adoption and Alternative Families).
- 35 However, in its submission in response to Position Paper Two (submission 170), the committee stated that it did not agree with the commission's interim recommendation that adoption orders be able to be made in favour of same-sex couples. This statement may have been directed to the commission's interim recommendations about recognising the non-birth mother (see Chapter 12).
- 36 Submission PP2 87 (Anonymous).
- 37 Submission PP2 58 (Helen Kane).

10

Chapter 10

Adoption



RECOMMENDATIONS

68. The same-sex partner of the parent of a child should be able to apply to adopt the child in accordance with the same criteria that apply to opposite-sex partners.
69. The Department of Human Services should review the *Adoption and Permanent Care Procedures Manual* to accommodate applications by same-sex couples.
70. Adoption agency staff should receive training to provide education about parenting by same-sex couples.
71. The *Adoption Act 1984* should be amended to allow the County Court to make an adoption order in favour of a single person in accordance with the same criteria that apply to couples.

Expanding eligibility criteria for adoption would not mean that same-sex couples could automatically adopt children. They would be subject to the full range of assessment criteria relevant to all people who apply to adopt children. The following provisions would remain:

- The applicants must apply to be approved as fit and proper people to adopt a child.³⁸
- The applicants must attend information and education sessions.³⁹
- The applicants must undergo medical and police checks and provide personal references and histories.⁴⁰
- The applicants must provide information about their financial circumstances.⁴¹
- The applicants must be assessed and approved as fit and proper persons to adopt.⁴²
- The birth parents must consent to the adoption.⁴³
- The birth parents are given the opportunity to be involved in the placement of the child and to express preferences about approved applicants.⁴⁴
- If the child is old enough, his or her wishes must be taken into account.⁴⁵
- The County Court must be satisfied the applicants are fit and proper persons to adopt a child before making the adoption order.⁴⁶
- The County Court may make the adoption order subject to the condition that the child's birth parents have access to the child.⁴⁷

The commission acknowledges the presumption against step-parent and relative adoption and agrees that the current policy, which favours Family Court parenting orders over step-parent and relative adoptions, is appropriate where the child already has a second parent and extended family. Assuming our recommendations about the recognition of the non-birth mother as a legal parent of the child are implemented (see Chapter 12), situations will arise where a child born to a same-sex couple has two legal parents who later separate. If either parent enters a new relationship, the commission believes the presumption against step-parent adoption should apply.

However, where there are exceptional circumstances and a Family Court parenting order would not be adequate for the care of the child, the court should be able to make an adoption order in favour of the same-sex partner of a child's parent in the same way that it can make an order in favour of a partner of the opposite sex. From a legislative point of view, this can be achieved with relative ease, by amending the definition of 'de facto spouse' in section 4 of the Adoption Act to include people living in same-sex relationships. If the child was born as a result of donor insemination to a single woman, the child will not have a legal father. If the child's mother subsequently enters into a relationship, it may be that such a situation would amount to 'exceptional circumstances' and adoption by the mother's new partner would be in the best interests of the child.

CONSEQUENTIAL AMENDMENTS

Connections, one of the agencies in Victoria that provides services for people considering adoption or permanent care for their children, expressed in-principle support for permitting same-sex couples to adopt children.⁴⁸ However, their submission commented that expanding the eligibility criteria would probably necessitate further training for staff and may raise new issues for the assessment process. For example, they suggested that there may be a greater likelihood of relinquishing parents choosing a heterosexual couple over a same-sex couple for their child as a result of current social and community attitudes. Birth parents commonly express a wish for their child to have what they are often unable to provide for them, namely a mother and a father in a stable relationship. They also suggested it may become necessary to explore whether the child would 'be exposed to adults of both genders in addition to receiving nurture from their parents', but commented that the existing assessment process would be able to include such considerations:

It was felt that the current adoption processes allow for education and complex assessment around eligibility criteria with particular focus on applicants' views on parenting, strength of the couple's relationship, motivation, commitment, attitudes to access and information exchange with a child's birth family,

level of understanding of identity issues for adoptees, and can be extended to incorporate the gender issues noted above allowing for the selection and approval process to continue to be child-focused as well as equitable for applicants.⁴⁹

These types of issues could be addressed in the *Adoption and Permanent Care Procedures Manual* which is currently directed to applications by heterosexual couples. We recommend that it be reviewed and modified to recognise applications from people in same-sex relationships. Adoption agency staff should receive training to provide education about same-sex parenting.

SINGLE APPLICANTS

In Chapter 5, the commission recommended that single women be permitted to access ART services. The commission believes that single people are able to provide secure and loving environments for children. Consistent with those recommendations, the commission believes it would be appropriate to remove the higher standard that is applied to single applicants applying to adopt. We believe that the adoption legislation provides an adequate process for assessing the suitability of a single person to adopt a child, without the need to prove to the court that 'special circumstances' exist. The assessment process already examines the financial circumstances of applicants, the current demands of the applicant's employment and the extent of family, friendship and community networks.⁵⁰ The commission therefore recommends that the Adoption Act be amended to make the criteria for making an adoption order in favour of a single person consistent with those that apply to the making of an order in favour of a couple.

INTERCOUNTRY ADOPTION

Intercountry adoption is the adoption of a child from another country.

In Victoria, intercountry adoption is the responsibility of the Department of Human Services and is regulated by Part 4A of the Adoption Act. Part 4A implements the provisions of the 1993 Hague Convention, which was ratified by Australia on 25 August 1998.⁵¹

The County Court is able to grant an adoption order under Part 4A of the Adoption Act if it is satisfied that 'the arrangements for the adoption of the child are in accordance with the requirements of the Hague Convention'.⁵² The convention does not specify eligibility criteria for selecting prospective parents; these must be established by the contracting states.⁵³ Victorian applicants must meet the eligibility criteria of both Victorian law and the law of the country of origin.

Victoria has intercountry adoption arrangements with nine countries: China, Ethiopia, Hong Kong, India, Lithuania, the Philippines, Korea, Sri Lanka and Thailand.⁵⁴ These arrangements operate under bilateral government-to-government agreements or the Hague Convention. None of the countries with which Victoria has an arrangement permits a same-sex couple to adopt a child. China, Ethiopia, Hong Kong and the Philippines permit single applicants to adopt.

In 2005–6 there were 81 intercountry adoption placements in Victoria.⁵⁵

The commission does not make any recommendations about intercountry adoption because, as a state-based body, our recommendations cannot affect the law of the countries with which Victoria has adoption arrangements. If same-sex couples become eligible to adopt children in Victoria, in time, Victoria may enter into arrangements with countries that also permit adoption by same-sex couples. However, recent federal government pronouncements suggest attempts may be made in the future to transfer domestic responsibility for intercountry adoptions to the Commonwealth.⁵⁶

38 *Adoption Act 1984* s 13(1).

39 Department of Human Services (2004), above n 5, 42–5.

40 *Ibid* 48–9.

41 Adoption Regulations 1998 sch 5.

42 *Adoption Act 1984* s 13(3).

43 *Adoption Act 1984* s 33 (1).

44 *Adoption Act 1984* s 15(1)(b); Adoption Regulations 1998 s 18; Department of Human Services (2004), above n 5, 60.

45 *Adoption Act 1984* s 14.

46 *Adoption Act 1984* s 15(1).

47 *Adoption Act 1984* s 59A.

48 Submission CP 122 (Connections Adoption & Permanent Care Program).

49 *Ibid*.

50 Department of Human Services (2004), above 5, 56.

51 *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*, opened for signature 29 May 1993 (entry into force in Australia 1 December 1998).

52 *Adoption Act 1984* s 69B(2)(c).

53 *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*, arts 5(a), 15(1).

54 Department of Human Services, *Intercountry Adoption Information Kit* (February 2007) <www.dhs.vic.gov.au> at 9 February 2007.

55 Department of Human Services (2006), above 2, 12.

56 House of Representatives, Standing Committee on Family and Human Services, *Overseas Adoption in Australia: Report on the Inquiry into Adoption of Children from Overseas* (2005).

10

Chapter 10

Adoption



In 2004, the federal government introduced a Bill to amend the Family Law Act to prevent same-sex couples from adopting children from overseas.⁵⁷ The Bill was referred to the Senate Legal and Constitutional Legislation Committee for review on 23 June 2004. One of the matters the committee was directed to consider was whether the Commonwealth has the power to pass such legislation and whether it would interfere with state and territory responsibilities to legislate for and manage adoption processes.⁵⁸ The review was discontinued following the dissolution of parliament prior to the 2004 federal election.⁵⁹ At the time of writing, the Family Law (Same Sex Adoption) Bill was proposed for introduction in the 2007 Autumn Session of Federal Parliament. The Bill is to 'amend the Family Law Act 1975 to indicate that adoptions by same sex couples of children from overseas under either bilateral or multilateral arrangements will not be recognised in Australia'.⁶⁰

In 2005, the House of Representatives Standing Committee on Family and Human Services reviewed the practice of intercountry adoptions.⁶¹ The review did not address the eligibility of same-sex couples to adopt children from overseas, but did note that the eligibility criteria of the six most common countries of origin are generally more restrictive than in Australia, and that:

*these requirements are not negotiable. We must accept the requirements imposed by the countries of origin and it would be improper for Australian adoptive parents or governments to attempt to put a case to overseas authorities to make changes to them.*⁶²

The committee concluded that intercountry adoptions involve matters of external affairs and recommended the federal Attorney-General establish and manage overseas adoption programs. The committee also recommended that eligibility criteria be contained in regulation or in legislation, to ensure 'robust, transparent and documented practices' and 'standardised assessments across the jurisdictions'.⁶³ At the time of writing, the committee's recommendations have not been implemented.

58 The Marriage Legislation Amendment Bill 2004 (Cth).

59 Parliament of Australia, Senate Legal and Constitutional Committee, Inquiry into the Marriage Legislation Amendment Bill 2004.

60 Senator Marise Payne, Chair Senate Legal and Constitutional Committee, Letter to Senator Paul Calvert (6 September 2004) <www.aph.gov.au> at 16 November 2004.

61 Department of Prime Minister and Cabinet, Legislation Proposed for Introduction in the 2007 Autumn Sittings, <www.dpnc.gov.au/parliamentary/docs/proposed_legislation.pdf> at 6 February 2007.

62 House of Representatives, Standing Committee on Family and Human Services, *Overseas Adoption in Australia: Report on the Inquiry into Adoption of Children from Overseas* (2005).

63 Ibid 39.

64 Ibid, recommendation 3, xvii (para 3.43).