



Immigration (Guardianship of Children) Amendment Act 1994

No. 45 of 1994

An Act to amend the *Immigration (Guardianship of Children) Act 1946*

[Assented to 15 March 1994]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Immigration (Guardianship of Children) Amendment Act 1994*.

Principal Act

2. In this Act, “**Principal Act**” means the *Immigration (Guardianship of Children) Act 1946*¹.

Definitions

3. Section 4 of the Principal Act is amended:
- (a) by omitting the definition of “non-citizen child” and substituting the following definition:

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“‘**non-citizen child**’ means a person who is a non-citizen child under subsection 4AAA(1) or (4);”;

(b) by inserting the following definitions:

“‘**declared State or Territory**’ means a State or Territory in respect of which a declaration under section 4AAB is in force;

‘**intending adoptive parent**’, in relation to a person (the ‘**child**’), means a person who intends to:

- (a) adopt the child under the laws in force in a declared State or Territory; or
- (b) secure the recognition, under the laws in force in a declared State or Territory, of an adoption of the child by the person under the laws of a foreign country;

‘**prescribed adoption class visa**’ means a visa under the *Migration Act 1958* that is declared by the regulations to be an adoption class visa for the purposes of this Act.”.

Insertion of new sections

4. After section 4 of the Principal Act the following sections are inserted:

Non-citizen child

“4AAA.(1) Subject to subsections (2) and (3), a person (the ‘**child**’) is a non-citizen child if the child:

- (a) has not turned 18; and
- (b) enters Australia as a non-citizen; and
- (c) intends, or is intended, to become a permanent resident of Australia.

“(2) Subsection (1) does not apply if the child enters Australia in the charge of, or for the purposes of living in Australia under the care of:

- (a) a parent of the child; or
- (b) a relative of the child who has turned 21; or
- (c) an intending adoptive parent of the child.

“(3) Subsection (1) does not apply if:

- (a) the child enters Australia in the charge of, or for the purposes of living in Australia under the care of, a person who is not less than 21 years of age (the ‘**adult**’); and
- (b) a prescribed adoption class visa is in force in relation to the child when the child enters Australia; and
- (c) the adult intends to reside with the child in a declared State or Territory.

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- “(4) A person is a non-citizen child if:
- (a) the person has not turned 18; and
 - (b) a direction under section 4AA is in force in relation to the person.

Declared States and Territories

“4AAB.(1) The Minister may declare a State or Territory to be a declared State or Territory for the purposes of this Act.

- “(2) A declaration under subsection (1) is to be:
- (a) made in writing; and
 - (b) published in the *Gazette*.”.

NOTE

1. No. 45, 1946, as amended. For previous amendments, see No. 62, 1948; No. 29, 1952; No. 93, 1966; No. 216, 1973; No. 37, 1976; No. 84, 1983; and No. 65, 1985.

[*Minister's second reading speech made in—*
Senate on 16 December 1993
House of Representatives on 3 March 1994]