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Statutory Rules 1998 No. / 1

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**Family Law (Bilateral Arrangements—
 Intercountry Adoption) Regulations 1998**

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Family Law Act 1975*.

Dated **30 JUL 1998** 1998.

WILLIAM DEANE
 Governor-General

By His Excellency's Command,

DARYL WILLIAMS
 Attorney-General

Name of Regulations

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

Commencement

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

Definitions

3. In these Regulations:

Act means the *Family Law Act 1975*.

adoption compliance certificate, in relation to an adoption, means a document issued by a competent authority in the prescribed overseas jurisdiction in which the child to whom the document relates was habitually resident before being adopted, stating that:

- (a) the adoption took place in accordance with the laws of that overseas jurisdiction; and
- (b) the competent authority of the State in which the person adopting the child habitually resides agreed that the adoption may proceed.

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.

Prescribed overseas jurisdictions

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

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

5. (1) This regulation applies if:

- (a) an adoption, by a person who is habitually resident in Australia, of a child who is habitually resident in a prescribed overseas jurisdiction is granted in accordance with the laws of that overseas jurisdiction; and
- (b) an adoption compliance certificate issued by a competent authority of that overseas jurisdiction is in force in relation to the adoption.

(2) The adoption is recognised and effective, for the laws of the Commonwealth and each State, on and after the date that the adoption takes effect in the overseas jurisdiction.

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

Effect of recognition of an adoption

6. 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.

Evidential value of adoption certificate

7. 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.

Application

8. (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 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.
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SCHEDULE 1

Regulation 4

PRESCRIBED OVERSEAS JURISDICTIONS

People's Republic of China

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 1998.

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6 August