

Week 7: Surrogacy and Adoption

Adoption in Family Law

Introduction to Adoption

Adoption is a legal process in which an individual or couple assumes the parental rights and responsibilities of a child, who is not biologically related to them.

Adoption can provide children with stable and loving homes, and it can offer individuals or couples the opportunity to become parents

It includes a variety of legal and social considerations, including the best interests of the child, the eligibility of the adoptive parents, and the consent of the birth parents or legal guardians



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Some key points to consider in relation to adoption in Australia includes:

- **Eligibility:** To adopt a child in Australia, a person must be at least 18 years old and meet the eligibility requirements set out in the Adoption Act 2000 (NSW) These requirements include being an Australian citizen or permanent resident, being of good character, and being able to provide a stable and loving home for the child.
- **Consent:** In Australia, adoption can only occur with the consent of the birth parents or legal guardians of the child. The consent must be given in writing and witnessed by a prescribed authority. If the child is over 12 years old, their consent must also be obtained.
- **Adoption Orders:** Once the adoption process is complete, an Adoption Order is made by the court. This Order legally transfers parental responsibility for the child from the birth parents or legal guardians to the adoptive parents.
- **Access to Information:** In Australia, adopted children have the right to access information about their birth parents and biological heritage once they reach 18 years of age. Birth parents and adoptive parents can also access certain information about the adoption process.
- **Overseas Adoptions:** It is also possible to adopt a child from overseas in Australia, but the process is more complex and involves additional legal requirements, such as complying with the laws of both countries involved.

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Step-Parent Adoption Australia

In Australia, step parent adoption is a type of adoption that involves a step-parent adopting the child of their partner. The process of step parent adoption is governed by state and territory laws, and the eligibility requirements and procedures can vary depending on where the adoption takes place.

The Family Law Act 1975 sets out the legal requirements and procedures for adoption of a child by their step-parent.

The Act recognises the importance of the relationship between a child and their step-parent, and provides a framework for step-parent adoption that prioritises the best interests of the child.




Who is eligible to apply for step parent adoption in NSW?


The Court will make an adoption order in favour of the step parent of the child only if: –


- The child is at least 5 years old.
- The step parent has lived with the child and the birth parent for a continuous period of at least 2 years immediately before the application for adoption.
- All relevant and appropriate persons have given consent to the adoption of the child by the step parent (in accordance with the Adoption Act 2000).
- The Court is convinced that the adoption is ideal in the best interests of the child and better than all other legal alternatives.

All parties involved in the adoption must give consent. If the child is over 12 years of age, he/she can consent to their own adoption.

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