

Appendix A

References from the Act

Terms with specific meaning under the Act

The Act uses several key terms which have specific meaning under the Act. The terms are:

- **Ailan Kastom child rearing practice** is the practice recognised by Ailan Kastom under which a child's birth parents and the child's cultural parents agree in accordance with Ailan Kastom that the parental rights and responsibility for the child are permanently transferred from the birth parents to the cultural parents.
- Birth parent is a person who is recognised at law as being a parent of the child at the time the child is born.
- Cultural parent is a person who, in accordance with Ailan Kastom child rearing practice, agrees to accept the permanent transfer of the parental rights and responsibility for a child from the child's birth parents to the person.
- Informed person is a person who has knowledge and understanding of the specific Ailan Kastom child rearing practice that occurred in relation to the application and can verify that the transfer of parentage in relation to the subject child occurred in accordance with Ailan Kastom. This could be a family member such as a grandparent.
- **Customary Adoption** has been used as an explanation to describe the practice of permanently transferring a child from one extended family member to another. The term 'customary adoption' is not a term used in Torres Strait Islander culture, but initially used by Queensland Government as a term that could be understood within modern day terminology. The practice is now referred to as Ailan Kastom child rearing practice.
- **Other Carer** is a person other than the child's birth parent or cultural parent who has the right and responsibility to make decisions about the child's daily care under legislation other than this Act or the Child Protection Act 1999. An example of an other carer may be someone who is not a birth or cultural parent but has parental rights such as a grandparent of the subject child that may have family law orders providing for parental responsibility or contact. This is to ensure that person who holds those rights is also informed of and consents to the application.
- **Review Officer** is a person (other than the Commissioner) appointed by the Minister to review an application under s61 of the Act for a review of a decision decided by the Commissioner.
- **Appointed Person** is a person (other than the Commissioner) appointed by the Minister to consider an application instead of the Commissioner under s19 of the Act where a conflict of interest has been identified.
- **Administrator** is a person who is or was:
 - the Commissioner
 - an officer of the Office of the Commissioner
 - a Review Officer
 - an Appointed Person or
 - an officer or employee of the department whose services are made available to the Commissioner under s30(2).
- **The Minister** The Minister referred to in the Act is the Minister for Seniors, Disability Services and Minister for Aboriginal and Torres Strait Islander Partnerships under the Administrative Arrangements Order (No. 2) 2021 and s33 of the *Acts Interpretation Act 1954* (Qld).
- Schedule 1 of the Act has definitions of other terms used within the Act

Appendix B

FOR FURTHER INFORMATION

Office of the Commissioner Meriba Omasker Kaziw Kazipa

www.ocmokk.qld.gov.au

The Bill

Meriba Omasker Kaziw Kazipa – The Bill, Report No 40, August 2020 tabled by Cynthia Lui MP, Member for Cook, Queensland Parliament

<https://documents.parliament.qld.gov.au/tableOffice/TabledPapers/2020/5620T1395.pdf>

The Act

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2020-033>

<https://www.legislation.qld.gov.au/view/html/asmade/act-2020-033>

The Regulation

<https://www.legislation.qld.gov.au/view/html/inforce/current/sl-2021-0120>

The Guidelines

<https://www.ocmokk.qld.gov.au/resources/ocmokk/ockmokk-guidelines.pdf>

Media Releases

<https://www.ocmokk.qld.gov.au/news-updates>

OTHER INFORMATION

DSDSATSIP

<https://www.qld.gov.au/firstnations/family-social-support/torres-strait-islander-traditional-child-rearing-practice>

Paul Bann, 'Customary 'Adoption' in the Torres Strait Islands towards Legal Recognition', *Aboriginal LawBulletin*, 1994, 3(66), p 2.

[Torres Strait Islander family life | Australian Institute of Family Studies \(aifs.gov.au\)](http://www.aifs.gov.au/torres-strait-islander-family-life)

The coconut palm tree: a metaphor for Islander family life

<https://www.creativespirits.info/aboriginalculture/people/torres-strait-islander-culture>

Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020 – paper by Alastair Nicholson

<https://documents.parliament.qld.gov.au/tableOffice/TabledPapers/2020/5620T1395.pdf>

Beck & Whitby – Kupai Omasker Case Submission

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FamCA/2012/129.html?stem=0&synonyms=0&query=beck>





Continuing the legacy of advocates past and present will help ensure these practices are recognised and strengthened for Torres Strait Islander families raising future generations and leaders of tomorrow.

In doing so, we acknowledge the importance of culture, family, connection and self-determination for Torres Strait Islander children, individuals and their families now and into the future.

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