

## Extracted from the Adoption of Children Act 2022

### Eligibility to make adoption application

4.—(1) Subject to section 5, an adoption application may only be made by —

(a) 2 individuals married to each other —

(i) in Singapore under the Administration of Muslim Law Act 1966 or the Women's Charter 1961; or

(ii) outside Singapore under the law of another country or territory, in circumstances where the marriage is recognised as valid under that law, and the individuals would be taken to be lawfully married under written law in Singapore if the marriage had taken place in Singapore,

where —

(iii) both the individuals are habitually resident in Singapore; and

(iv) either or both the individuals are citizens of Singapore, or both individuals are permanent

residents of Singapore; or

(b) an individual who is —

(i) habitually resident in Singapore; and

(ii) either a citizen or permanent resident of Singapore.

(2) An adoption application may only be made —

(a) jointly by the 2 individuals mentioned in subsection (1)(a); or

(b) solely by an individual mentioned in subsection (1)(b) who is not an individual mentioned in subsection (1)(a).

(3) The requirements in subsection (1)(a)(iii) and (iv) and (b) do not apply to any adoption application made, and that is supported by a valid and favourable HSR held, by 2 individuals jointly or by an individual solely.

### Further provisions on eligibility to adopt a child

5.—(1) Unless subsection (2) applies, the applicants or applicant are not or is not eligible to adopt a child in the following circumstances:

(a) in the case of an adoption application by 2 applicants jointly —

(i) either applicant is below 25 years of age; or

(ii) either applicant is less than 21 years older than the child before the court;

(b) in the case of an adoption application solely by an applicant —

(i) the sole applicant is below 25 years of age; or

(ii) the sole applicant is less than 21 years older than the child before the court;

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- (c) the sole applicant is a male and the child before the court is a female;
- (d) either applicant (in the case of a joint application) or the sole applicant (in the case of a sole application) has been convicted of an offence prescribed by the regulations —
  - (i) whether the offence is committed before, on or after the date that the offence is prescribed; and
  - (ii) whether the offence is committed before, on or after the date of commencement of this section.

(2) Despite the applicants or applicant being ineligible under subsection (1) or section 4, the court may make an adoption order on an adoption application in any of the following circumstances:

- (a) in a case where subsection (1)(a) or (b) applies—either of the joint applicants or the sole applicant (as the case may be) and the child are within the prohibited degrees of consanguinity;
- (b) in a case where one of the 2 individuals in a marriage described in section 4(1)(a)(i) or (ii) wishes to make an adoption application solely —
  - (i) the individual’s spouse consents to the sole application; or
  - (ii) the consent of the individual’s spouse is to be dispensed with by the court because —
    - (A) he or she cannot be found or is incapable of giving such consent; or
    - (B) the individual and his or her spouse have separated and are living apart and the separation is likely to be permanent;
- (c) in a case where subsection (1) applies or the requirements in section 4(1)(a)(iii) or (iv) or (b) are not met—there are special circumstances which justify as an exceptional measure the making of an adoption order.

(3) In deciding whether there are special circumstances which justify as an exceptional measure the making of an adoption order under subsection (2)(c), the court is to give due consideration as to whether the Guardian-in-Adoption supports the making of the adoption order.

### **Child eligible for adoption**

6.—(1) An adoption order may only be made in respect of a child who is resident in Singapore.

(2) For the purpose of subsection (1), a child is deemed not to be resident in Singapore —

- (a) if the child is authorised or permitted to remain in Singapore by virtue of a visit pass, a student’s pass or a special pass issued by the Controller of Immigration, irrespective of the number of occasions the pass is issued to the child or renewed; or
- (b) if the child’s presence in Singapore is unlawful under the provisions of the Immigration Act 1959 or the regulations made under that Act.

(3) An adoption order may not be made in respect of any child who is or has been married.

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### Meaning of “suitable to adopt”

7. In considering whether joint or sole applicants are suitable to adopt a child, an authorised adoption agency, the Guardian-in-Adoption and the court determining the adoption application must assess the applicants’ suitability to adopt by reference (but not limited) to —

- (a) the factors prescribed by the regulations; and
- (b) any applicable ruling, decision or judicial pronouncement by any court in relation to a matter involving an adoption of a child.

### Pre-adoption application requirements

11. An adoption application may be made by an individual (whether jointly with his or her spouse or solely) only if he or she —

- (a) has attended a pre-adoption briefing described in section 12 within the last 3 years;
- (b) has attended a disclosure of adoptive status briefing described in section 13 within the last 3 years; and
- (c) holds a valid and favourable ASA described in section 14.

### Pre-adoption briefing

12. A pre-adoption briefing is a briefing conducted by an authorised adoption agency which informs the attendees —

- (a) about the process of adoption in Singapore and the eligibility criteria for an adoption order;
- (b) that the rights, duties, obligations and liabilities of the parent or parents or guardian or guardians of a child vest in and become exercisable by and enforceable against the adoptive parent upon the making of an adoption order in respect of the child;
- (c) about the parenting of a child who has been adopted, including understanding the unique needs of such a child; and
- (d) about any other matters that the authorised adoption agency may include in the briefing relating to adoption in Singapore.

### Briefing on disclosure of adoptive status

13. A disclosure of adoptive status briefing is a briefing conducted by an authorised adoption agency to —

- (a) convey to any individual who desires to adopt a child the benefits of disclosing to his or her adopted child the child’s adoptive status;

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- (b) equip the individual with the knowledge and skills to make the disclosure in a manner that ensures the welfare of his or her adopted child; and
- (c) encourage the individual to —
  - (i) make the disclosure as early as possible; and
  - (ii) explain to his or her adopted child the meaning of adoption in a manner that the child can understand.

### Requirement for favourable ASA

14.—(1) A favourable ASA is —

- (a) in the case of a joint adoption application—an ASA issued by an authorised adoption agency to the applicants jointly and containing an assessment by the agency that the applicants are suitable to adopt a child, whether unequivocally or subject to the resolution of any one or more issues contained in the ASA; or
- (b) in the case of a sole adoption application—an ASA issued by an authorised adoption agency to the applicant containing an assessment by the agency that the applicant is suitable to adopt a child, whether unequivocally or subject to the resolution of any one or more issues contained in the ASA.

(2) No application for an ASA may be made by any individual (whether jointly with his or her spouse or solely) unless he or she has —

- (a) resided in Singapore for a continuous period of at least one year immediately preceding the date of the making of the application for the ASA; and
- (b) attended a pre-adoption briefing described in section 12.

(3) A valid ASA is an ASA —

- (a) that is issued in the form specified by the Guardian-in-Adoption for the purposes of this subsection;
- (b) that contains all the information specified by the Guardian-in-Adoption for the purposes of this subsection; and
- (c) the validity period (as determined according to section 20) for which has not been exceeded.

(4) An authorised adoption agency that issues an ASA must submit a copy of the ASA to the Guardian-in-Adoption on the day that the ASA is issued.

### Consent of relevant persons

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26.—(1) The court must not make an adoption order in respect of any child unless the consent of every relevant person for the adoption of the child has either been validly obtained or dispensed with by the court.

(2) For the purposes of subsection (1), the consent of a relevant person for the adoption of a child is not validly obtained unless the consent is —

- (a) given only after such information and documents as are prescribed by the regulations have been provided to the relevant person;
- (b) in writing and in the form prescribed by the regulations;
- (c) witnessed by 2 witnesses present at the same time, each of whom must have attained 21 years of age;
- (d) obtained in accordance with any other procedural requirements prescribed by the regulations; and
- (e) attested by a solicitor, a commissioner for oaths, a notary public or any person for the time being authorised by law in the place where the document is executed to administer oaths.

### **Powers of Guardian-in-Adoption, etc., to direct and request persons to undergo assessments, etc.**

29.—(1) The Guardian-in-Adoption may, for the purpose of discharging his or her duty under section 27(1) in relation to an adoption application, do any one or more of the following:

- (a) direct the joint applicants (or either of them) or sole applicant (as the case may be) or any relevant person of the child before the court —
  - (i) to undergo any medical, psychiatric or psychological assessment, or any other assessment, that the Guardian-in-Adoption considers relevant to that purpose; or
  - (ii) to submit to the Guardian-in-Adoption any information or document that the Guardian-in-Adoption considers relevant to that purpose;
- (b) request any relative or member of the household of the joint applicants (or either of them) or sole applicant, as the case may be —
  - (i) to undergo any medical, psychiatric or psychological assessment, or any other assessment, that the Guardian-in-Adoption considers relevant to that purpose; or
  - (ii) to submit to the Guardian-in-Adoption any information or document that the Guardian-in-Adoption considers relevant to that purpose;
- (c) direct the joint applicants or sole applicant (as the case may be) or any relevant person of the child before the court, to send the child for any medical, psychiatric or psychological assessment, or any other assessment, that the Guardian-in-Adoption considers relevant to that purpose;

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(d) where the Guardian-in-Adoption has reason to believe that a particular person can provide any information or document that is relevant to that purpose — request that person to provide the information or document.

(2) In addition to the powers under subsection (1), the Guardian-in-Adoption may, for the purpose of discharging his or her duty under section 27(1) in relation to an adoption application, require an authorised adoption agency to —

(a) carry out —

(i) any supervision or consultation of the child before the court, the joint applicants (or either of them) or sole applicant, as the case may be; or

(ii) any preliminary investigation as to the circumstances of the child before the court, the joint applicants (or either of them) or sole applicant (as the case may be) or any relevant person of the child, including any preliminary investigation as to the home environment of the child while residing with the joint applicants (or either of them) or sole applicant, as the case may be; and

(b) submit to the Guardian-in-Adoption a report of the supervision, consultation or preliminary investigation mentioned in paragraph (a) or any other information or document that the Guardian-in-Adoption considers relevant to that purpose.

(3) Where an authorised adoption agency is required under subsection (2) to carry out any supervision, consultation or preliminary investigation —

(a) all the powers of the Guardian-in-Adoption under subsection (1) are exercisable by the authorised adoption agency; and

(b) a reference to the Guardian-in-Adoption in subsection (1) includes a reference to that authorised adoption agency.

(4) Where the joint applicants (or either of them) or the sole applicant (as the case may be) fail or fails to comply with any direction under subsection (1) made by the Guardian-in-Adoption or an authorised adoption agency, the Guardian-in-Adoption may —

(a) draw any adverse inference against the joint applicants or sole applicant (as the case may be) when making an assessment in the Guardian-in-Adoption's affidavit as to whether an adoption order ought to be made in the circumstances; or

(b) solely on the basis of the failure, make an assessment in the Guardian-in-Adoption's affidavit that an adoption order ought not to be made in the circumstances.

(5) Where any relevant person fails to comply with any direction given under subsection (1) by the Guardian-in-Adoption or an authorised adoption agency, the Guardian-in-Adoption may —

(a) draw any adverse inference against the relevant person when making an assessment in the Guardian-in-Adoption's affidavit as to whether the consent of the relevant person required under section 26 has been validly obtained or ought to be dispensed with; or

(b) solely on the basis of the failure, make an assessment in the Guardian-in-Adoption's affidavit that —

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- (i) the consent of the relevant person required under section 26 (if not obtained from the relevant person) ought to be dispensed with; or
- (ii) the consent of the relevant person required under section 26 (if obtained from the relevant person) has been validly obtained.

(6) The Guardian-in-Adoption and an authorised adoption agency are not personally liable, and the Government is not liable, for —

- (a) the cost of any assessment directed or requested under subsection (1); or
- (b) the cost of obtaining or submitting any report of any assessment directed or requested under subsection (1).

(7) An individual cannot rely on —

- (a) the common law privilege against self-incrimination or exposure to the imposition of a penalty; or
- (b) any rule of law relating to legal professional privilege or any other privilege, or the public interest, to refuse to provide any information or document directed to be provided under subsection (1)(a)(ii).

### **Power to draw adverse inferences, etc., for failure to notify, etc.**

33.—(1) The court may, on the application of the Guardian-in-Adoption or on its own motion, draw any adverse inference against the joint applicants or sole applicant (as the case may be) of an adoption application or any relevant person of the child before the court, or make any other order as the court thinks fit, if the court is satisfied that —

- (a) the joint applicants (or either of them) or sole applicant (as the case may be) have or has failed to comply with section 22(1) or (2) or 30(1), (2) or (3);
- (b) before the issue of the ASA based on which the adoption application is made or the issue of any HSR filed in support of the adoption application, any fact or information that would have made a material impact on the assessment by the authorised adoption agency that was preparing the ASA or the adoption agency that was preparing the HSR (as the case may be), was not disclosed or made known to the agency by the joint applicants (or either of them) or sole applicant, as the case may be;
- (c) before the Guardian-in-Adoption's affidavit was filed in court, any fact or information that would have made a material impact on the assessment of the Guardian-in-Adoption in the affidavit was not disclosed by the joint applicants (or either of them) or sole applicant (as the case may be) or any relevant person of the child before the court to the Guardian-in-Adoption either —
  - (i) directly to the Guardian-in-Adoption; or
  - (ii) through an authorised adoption agency required under section 29(2) to carry out any supervision, consultation or preliminary investigation in relation to the adoption application; or
  - (d) the joint applicants (or either of them) or sole applicant (as the case

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ay be) or any relevant person of the child before the court have or has provided false or misleading information pertaining to the proposed adoption to —

- (i) the court;
- (ii) the Guardian-in-Adoption;
- (iii) the authorised adoption agency that issued the ASA on which the adoption application is made or the adoption agency that issued any HSR filed in support of the adoption application; or
- (iv) the authorised adoption agency required under section 29(2) to carry out any supervision, consultation or preliminary investigation in relation to the adoption application.

(2) Where the joint applicants or sole applicant (as the case may be) do not or does not comply with any requirement, order or direction given under section 32(1), the court may draw any adverse inference against the joint applicants or sole applicant (as the case may be) or make any other order as the court thinks fit.

(3) The court may strike out an adoption application in respect of a child if the application is not made within the period prescribed by the regulations beginning on the first day that any joint applicant or the sole applicant, as the case may be —

- (a) resides with the child; or
- (b) starts spending any amount of time with the child for the purpose of considering whether to adopt the child.

(4) Subsection (3) does not apply if —

- (a) before the date of commencement of this section, any joint applicant or the sole applicant (as the case may be) is residing with the child, or starts spending any amount of time with the child for the purpose of considering whether to adopt the child; or
- (b) any of the circumstances set out in section 57(4) applies to any joint applicant or the sole applicant (as the case may be) and, for this purpose, a reference to a potential adopter in that provision is to be read as a reference to a joint applicant or the sole applicant, as the case may be.

### **Power to order assessments and submission of further information and documents**

34.—(1) The court may, on the application of the Guardian-in-Adoption or on its own motion, for any of the purposes specified in subsection (2) —

- (a) order any person who, in the opinion of the court, is able to provide any information or documents that the court may specify, to provide the information or documents to the court or the Guardian-in-Adoption;
- (b) order the joint applicants (or either of them) or sole applicant (as the case may be) of an adoption application, or any relevant person of the child before the court, to —



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- (i) undergo any medical, psychiatric or psychological assessment, or other assessment, that the court thinks necessary;
  - (ii) send the child before the court to undergo any medical, psychiatric or psychological assessment, or other assessment, that the court thinks necessary; or
  - (iii) render any assistance to the court that the court thinks necessary; or
- (c) make any order or give any other direction as the court thinks fit.
- (2) The purposes mentioned in subsection (1) are as follows:
- (a) to obtain any information as to the family background, general conduct, home environment, school record, medical history and state of development of the child, that may enable the court to deal with the adoption application with regard to the welfare of the child;
  - (b) to determine whether the consent required under section 26 of any relevant person of the child has been validly obtained or ought to be dispensed with;
  - (c) to determine whether the joint applicants or sole applicant (as the case may be) are or is suitable to adopt the child.
- (3) Unless the court orders otherwise, the costs of and incidental to any assessment required by the court under subsection (1) must be borne by —
- (a) in the case of an assessment required of any joint applicant, the sole applicant or the child before the court — the joint applicants or sole applicant, as the case may be; or
  - (b) in the case of an assessment required of any relevant person of the child before the court—the relevant person.
- (4) Any report of an assessment required to be submitted to the court under subsection (1) may be received and considered by the court without being read aloud.
- (5) Where the joint applicants (or either of them) or sole applicant (as the case may be) fail or fails to comply with any order of the court under subsection (1), the court may draw any adverse inference against the joint applicants or sole applicant, as the case may be.
- (6) Where any relevant person of the child before the court fails to comply with any order of the court under subsection (1), the court may draw any adverse inference against the relevant person when deciding whether the consent of the relevant person required under section 26 has been validly obtained or ought to be dispensed with.
- (7) Despite the provisions of the Administration of Justice (Protection) Act 2016, failure to comply with any order given under subsection (1) is not a contempt of court.
- (8) If any order under subsection (1) is not complied with, the court may —
- (a) stay the adoption proceedings until the order has been complied with;
  - (b) order any person responsible for the non-compliance to pay the costs of the adoption proceedings; or
  - (c) make any other order as the court thinks fit.

**Power to order mediation, counselling, etc.**

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35.—(1) At any time during any adoption proceedings, the court may, on the application of the Guardian-in-Adoption or on its own motion, make an order requiring the joint applicants (or either of them) or sole applicant (as the case may be), any relevant person of the child before the court, or the child, to undergo mediation, counselling, psychotherapy or other assessment, programme or treatment or to partake in any activity that the court thinks is beneficial for achieving any of the following:

- (a) in the case of a contested adoption application — an amicable resolution of any issue arising from the application;
- (b) in any case —
  - (i) enhancing, promoting or protecting the physical, mental, social or psychological wellbeing or safety of the child before the court; or
  - (ii) resolving any relationship problem —
    - (A) between the joint applicants (or either of them) or sole applicant (as the case may be) and the child;
    - (B) between the joint applicants (or either of them) or sole applicant (as the case may be) and any relevant person of the child; or
    - (C) between the child and any relevant person of the child.

(2) In making an order under subsection (1), the court may require the joint applicants or sole applicant (as the case may be) or the relevant person to enter into a bond to comply with the order.

(3) Despite the provisions of the Administration of Justice (Protection) Act 2016, failure to comply with any order given under subsection (1) is not a contempt of court.

(4) If any order under subsection (1) is not complied with, the court may —

- (a) stay the adoption proceedings until the order has been complied with;
- (b) order any person responsible for the non-compliance to pay the costs of the adoption proceedings; or
- (c) make any other order as the court thinks fit.

### Grounds for dispensation of consent of relevant persons

37.—(1) The court may, on any of the following grounds, dispense with the consent required under section 26 of any relevant person of a child before the court:

- (a) the child is the subject of an order under section 56(2)(a) of the Children and Young Persons Act 1993, or under section 56(2)(a) of that Act as applied by section 57 of that Act, being an order that is in force;
- (b) the relevant person has abandoned or neglected the child or cannot be found;
- (c) the relevant person has —
  - (i) intentionally caused grievous hurt to the child, or acted in a manner that the relevant person knew was likely to cause grievous hurt to the child; or

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(ii) caused, procured or knowingly permitted another person to cause grievous hurt to the child;

(d) the relevant person —

(i) has at any time before the specified period, ill-treated the child or caused, procured or knowingly permitted another person to ill-treat the child; and

(ii) by the end of the specified period, has not taken, or is unable or unwilling to take, reasonable steps to resolve the circumstances that caused or contributed to the ill-treatment or that can cause or contribute to the recurrence of ill-treatment;

(e) the relevant person —

(i) failed to provide suitable care for the child at any time before the specified period, thereby causing the child to be in need of care or protection (whether before or during the specified period); and

(ii) by the end of the specified period, has not taken, or is unable or unwilling to take, reasonable steps to resolve the circumstances that caused or contributed to the child being in need of care or protection or that can cause or contribute to the recurrence of the child being in need of care or protection;

(f) the relevant person is a drug addict as defined in section 2 of the Misuse of Drugs Act 1973, has been convicted of offences under that Act (or any corresponding previous law) on at least 2 separate occasions and is, by virtue of his or her addiction and convictions, unable, unwilling or unlikely to care for the child;

(g) the relevant person is in remand or serving a sentence of imprisonment, or is serving an order of detention under any written law (whether or not for his or her own rehabilitation or safety), for a duration as to render him or her unable, unwilling or unlikely to care for the child;

(h) the relevant person has any physical or mental incapacity of such nature or degree, and the incapacity is likely to continue for such duration, as to render him or her unable, unwilling or unlikely to care for the child;

(i) the consent of the relevant person, in the opinion of the court and in all the circumstances of the case, ought to be dispensed with.

(2) For the purpose of determining whether the ground in subsection (1)(h) exists in relation to a relevant person, the court must take into account a medical assessment or psychiatric assessment (as the case may be) of the relevant person.

(3) To avoid doubt, the court may dispense with the consent of any relevant person under subsection (1) even if the relevant person has made suitable initial arrangements for the child by placing the child under the care of another person or in a home for children and young persons, whether pursuant to a court order or voluntary care agreement under the Children and Young Persons Act 1993 or otherwise.

(4) In this section, “specified period”, in relation to the ill-treatment of, or the failure to provide suitable care for, a child, means the following period (whichever is applicable) immediately preceding the making of an adoption application in respect of the child:

(a) where the child is below 3 years of age — 12 months;

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(b) where the child is 3 years of age or older — 24 months.

### **Matters with respect to which court to be satisfied before making adoption order**

42.—(1) The court must not make an adoption order unless the court is satisfied that —

(a) every relevant person whose consent is required under section 26 and whose consent is not dispensed with has freely consented to and understands the nature and effect of the adoption order and, in particular, every relevant person who is a parent of the child understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights over the child;

(b) the adoption order, if made, will be for the welfare of the child; and

(c) the joint applicants or sole applicant (as the case may be) have or has the appropriate character and fitness and are or is suitable to adopt the child.

(2) For the purpose of satisfying itself whether the adoption order, if made, will be for the welfare of the child under subsection (1)(b), the court is to give due consideration to the wishes of the child, having regard to the age and maturity of the child.

### **Power to order removal and placement of child upon unsuccessful adoption application**

43.—(1) This section applies where an adoption application is unsuccessful.

(2) The court may, upon an application of the Guardian-in-Adoption or on its own motion, order the person having physical custody of the child who is the subject of an unsuccessful adoption application to deliver the child to the physical custody of a suitable person recommended by the Guardian-in-Adoption within the time specified by the court.

(3) For the purposes of enforcing an order under subsection (2), the court may direct the bailiff to seize the child from the physical custody of any person or from any place and deliver the child to the physical custody of the suitable person mentioned in that subsection.

(4) The court may, upon the application of the Guardian-in-Adoption or on its own motion, make any order as it thinks fit (whether or not an order under subsection (2) has also been made) to facilitate any change in the physical custody of a child who is the subject of an unsuccessful adoption application.

(5) Any person who, without reasonable excuse, fails to comply with an order under subsection (2) shall be guilty of an offence and shall be liable on conviction —

(a) on the first conviction — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) on a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

(6) In this section, a reference to an adoption application that is unsuccessful is a reference to an adoption application that is withdrawn, struck out or dismissed by the court.

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### Power to order persons to undergo mediation, counselling, etc., post adoption proceedings

45.—(1) This section applies after adoption proceedings arising from an adoption application including an adoption application under the repealed Act) are concluded.

(2) The court may, upon the application of the Guardian-in-Adoption, make an order requiring the joint applicants (or either of them) or sole applicant (as the case may be), any relevant person of the child in respect of whom the adoption application was made, or the child, to undergo mediation, counselling, psychotherapy or other assessment, programme or treatment or to partake in any activity that the court thinks is beneficial for achieving any of the following:

(a) enhancing, promoting or protecting the physical, mental, social, or psychological wellbeing or safety of the child; (b) resolving any relationship problem —

(i) between the joint applicants (or either of them) or sole applicant (as the case may be) and the child;

(ii) between the joint applicants (or either of them) or sole applicant (as the case may be) and any relevant person of the child;

(iii) between the child and any relevant person of the child; or

(iv) in a case where an adoption order has been made on the adoption application — within the adoptive family of the child.

(3) In making an order under subsection (2), the court may require the joint applicants or sole applicant (as the case may be) or the relevant person to enter into a bond to comply with the order.

### Effect of adoption order on status of adopted child vis-à-vis adoptive parents and on citizenship

46.—(1) Upon an adoption order being made —

(a) all rights, duties, obligations and liabilities of the parent or parents or guardian or guardians of the adopted child, in relation to the future custody, care and control, maintenance and education of the adopted child, including all rights to appoint a guardian or to consent or refuse consent to marriage, are extinguished;

(b) all the rights, duties, obligations and liabilities mentioned in paragraph (a) vest in and are exercisable by and enforceable against the adoptive parents or adoptive parent as though the adopted child were a child born to the adoptive parents or adoptive parent in a lawful marriage; and

(c) in respect of the same matters and in respect of the liability of a child to maintain his or her parents, the adopted child stands to the adoptive parents or adoptive parent exclusively in the position of a child born to the adoptive parents or adoptive parent in a lawful marriage.

(2) In a case where 2 individuals married to each other are the adoptive parents, the individuals stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child stands to them respectively in the same relation as a child would have stood to a lawful father and mother respectively —

(a) in respect of the matters in subsection (1)(a), (b) and (c); and

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- (b) for the purpose of the jurisdiction of any court to make orders as to the custody, care and control and maintenance of and right of access to children.
- (3) For the purpose of the law relating to marriage, an adoptive parent and all children and adopted children of the adoptive parent are deemed to be within the prohibited degrees of consanguinity.
- (4) Subsection (3) continues to have effect even if a person other than the adoptive parent of an adopted child adopts the same child under a subsequent adoption order.
- (5) An adoption order in itself does not affect the citizenship of an adopted child.

### **Restriction on publication or broadcast of information or pictures of children involved in adoption proceedings**

48.—(1) Subject to subsections (2) and (3), a person must not publish or broadcast any information or picture that identifies, or is likely to lead to the identification of, any protected person as a child who was or is the subject of an adoption application —

- (a) whether or not an adoption order was or has been made on the adoption application; and
- (b) even after the protected person attains 21 years of age.

(2) Subsection (1) does not apply where —

- (a) in a case where the adoption application was successful and the protected person is below 21 years of age — the adoptive parent of the protected person consents to the publication or broadcast;
- (b) in a case where the protected person has attained 21 years of age — the protected person consents to the publication or broadcast;
- (c) in a case where the adoption application was unsuccessful and the protected person is below 21 years of age — a relevant person of the protected person consents to the publication or broadcast; or
- (d) in any case — the Guardian-in-Adoption gives his or her approval for the publication or broadcast.

(3) Nothing in subsection (1) prevents —

- (a) any relevant person of a protected person who is below 21 years of age and in respect of whom no adoption order has been made and no adoption proceedings are pending;
- (b) the adoptive parent of a protected person who is below 21 years of age; or
- (c) a protected person in respect of whom no adoption proceedings are pending, from publishing or broadcasting any information or picture mentioned in that subsection in relation to the protected person.

(4) If any information or picture is published or broadcast in contravention of subsection (1) —

- (a) in the case of the publication of any information or picture as part of a newspaper or periodical publication — every proprietor, editor, publisher or distributor of the newspaper or periodical publication;

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(b) in the case of the publication of any information or picture otherwise than as part of a newspaper or periodical publication, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000 or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

(5) The court may, in addition to any punishment mentioned in subsection (4), order a person to do any one or more of the following:

(a) remove the publication or stop the broadcast, of any information or picture that is in contravention of subsection (1);

(b) remove the programme in which the information or picture that is broadcast in contravention of subsection (1) is broadcast;

(c) delete the information or picture that is published or broadcast in contravention of subsection (1);

(d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of subsection (1) is no longer available on or through the Internet.

(6) Subsection (1) is in addition to, and not in derogation from, the provisions of any other written law with respect to the publication of information relating to judicial proceedings.

(7) In this section and sections 49, 51 and 52 —

“adoption application” and “adoption order” include an application and an order, respectively, made under section 3 of the repealed Act;

“broadcast” means sounds or visual images —

(a) broadcast by wireless telegraphy, or by means of a high frequency distribution system over wire or other paths provided by a material substance, and intended for general reception;

(b) broadcast through the Internet or any website, web service or Internet application, whether or not intended for general reception; or

(c) broadcast through any messaging system;

“messaging system” means any system that enables the transmission of short text messages, or of any visual communication, voice communication or email —

(a) from a digital mobile telephone to another digital mobile telephone; or

(b) from an email address to a digital mobile telephone, or the other way around;

“protected person” means an individual in respect of whom an adoption application was or has been made;

“publish”, in relation to any information or picture, means to bring the information or picture to the notice of the public or a section of the public by any means, including (to avoid doubt) through —

(a) the Internet or any website, web service or Internet application; or

(b) any messaging system.

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### Order to remove publication or broadcast in contravention of section 48

49.—(1) A court may, on the application of any of the persons mentioned in subsection (2), order a person to do any or more of the following:

- (a) remove the publication, or stop the broadcast, of any information or picture that is in contravention of section 48(1);
- (b) remove the programme in which the information or picture that is broadcast in contravention of section 48(1) is broadcast;
- (c) delete the information or picture that is published or broadcast in contravention of section 48(1);
- (d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of section 48(1) is no longer available on or through the Internet.

(2) For the purposes of subsection (1), the persons are as follows:

- (a) the Guardian-in-Adoption;
- (b) any relevant person of a protected person who is below 21 years of age and in respect of whom no adoption order has been made and no adoption proceedings are pending;
- (c) the adoptive parent of a protected person who is below 21 years of age;
- (d) a protected person who has attained 21 years of age.

(3) The court may make an order under subsection (1) even if —

- (a) the application is not served on the person against whom the order is to be made (called in this section the respondent) or is not served on the respondent within a reasonable time before the hearing of the application; or
- (b) when the application has been served on the respondent— the respondent does not appear at the hearing of the application,

if the court is satisfied, on a balance of probabilities, that the protection of the privacy of the protected person that will be achieved by making the order outweighs the potential detriment to the respondent by not being heard.

(4) To avoid doubt, the court may make an order under subsection (1) regardless of whether the respondent or any other person has been convicted of an offence under section 48(4) in relation to the information or picture mentioned in subsection (1).

### Restriction on publication or broadcast of information or pictures of children for adoption, etc.

51.—(1) This section applies to the publication or broadcast of any information or picture that identifies a child, or is likely to lead to the identification of a child, where —

- (a) the child is in Singapore;
- (b) the intended audience or recipients of the information or picture is or are predominantly in Singapore; or



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(c) the publication or broadcast is by an adoption agency.

(2) Except with the prior approval of the Guardian-in-Adoption, a person must not, in the course of doing any of the following, publish or broadcast any information or picture that identifies any child or is likely to lead to the identification of any child:

(a) communicating that a relevant person of a child desires to cause the child to be adopted;

(b) advertising or promoting any service of making arrangements for or on behalf of another person for the adoption of a child by that other person;

(c) making arrangements for or on behalf of another person for the adoption of a child by that other person.

(3) Subsection (2) does not apply in relation to any information or picture broadcast by a person (A) to any other person (B) who has communicated to A that B desires to adopt a child if the information or picture —

(a) is broadcast upon B's request; and

(b) is broadcast through such means and with such safeguards as to cause the information or picture to be accessible only by B (and any other person in B's position).

(4) If subsection (3) applies and B publishes or broadcasts the information or picture broadcast by A, B shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

(5) If any information or picture is published or broadcast in contravention of subsection (2) —

(a) in the case of the publication of any information or picture as part of a newspaper or periodical publication — every proprietor, editor, publisher or distributor of the newspaper or periodical publication;

(b) in the case of the publication of any information or picture otherwise than as part of a newspaper or periodical publication — every person who publishes or distributes it; or

(c) in the case of the broadcast of any information or picture—

(i) every person who broadcasts the information or picture;

(ii) every person who transmits or provides the programme in which the information or picture is broadcast; and

(iii) every person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication,

shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000 or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

(6) The court may, in addition to any punishment mentioned in subsection (4) or (5), order a person to do any one or more of the following:

(a) remove the publication or stop the broadcast, of any information or picture that is in contravention of subsection (2) or (4);

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- (b) remove the programme in which the information or picture that is broadcast in contravention of subsection (2) or (4) is broadcast;
- (c) delete the information or picture that is published or broadcast in contravention of subsection (2) or (4);
- (d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of subsection (2) or (4) is no longer available on or through the Internet.

### **Order to remove publication or broadcast in contravention of section 51**

52.—(1) A court may, on the application of any person, order a person to do any or more of the following:

- (a) remove the publication, or stop the broadcast, of any information or picture that is in contravention of section 51(2) or (4);
- (b) remove the programme in which the information or picture that is broadcast in contravention of section 51(2) or (4) is broadcast;
- (c) delete the information or picture that is published or broadcast in contravention of section 51(2) or (4);
- (d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of section 51(2) or (4) is no longer available on or through the Internet.

(2) The court may make an order under subsection (1) even if —

- (a) the application is not served on the person against whom the order is to be made (called in this section the respondent) or is not served on the respondent within a reasonable time before the hearing of the application; or
- (b) when the application has been served on the respondent— the respondent does not appear at the hearing of the application, if the court is satisfied, on a balance of probabilities, that the order is necessary for the welfare of the child concerned.

(3) To avoid doubt, the court may make an order under subsection (1) —

- (a) regardless of whether the respondent or any other person has been convicted of an offence under section 51(4) or (5) in relation to the information or picture mentioned in subsection (1); and
- (b) regardless of whether the information or picture mentioned in subsection (1) is published or broadcast before, on or after the date of commencement of this section.

### **Prohibition against payments and rewards for non-permitted purposes**

55.—(1) A person must not (directly or indirectly through one or more intermediaries) make, give, receive or agree to make, give or receive any payment or other reward in consideration of an adoption

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in Singapore of a child or for any adoption-related service in connection with the adoption or proposed adoption of a child, unless the payment or other reward is permitted under subsection (2) or approved by the Guardian-in-Adoption in any particular case.

(2) The following payments and rewards are permitted for the purposes of this section:

(a) any payment to an authorised adoption agency for any one or more of the following adoption-related services:

- (i) the conduct of a pre-adoption briefing described in section 12;
- (ii) the conduct of a disclosure of adoptive status briefing described in section 13;
- (iii) the conduct of any assessment by the authorised adoption agency for the purposes of preparing an  
ASA;

(b) any payment to defray —

- (i) any cost related to the necessary care of a biological mother and her child provided in connection with, and before or after, the delivery of the child;
- (ii) any medical expenses incurred for the delivery of the child;
- (iii) the cost of satisfying the subsistence needs of the child, including any medical expenses incurred for medical services rendered to the child;
- (iv) the cost of any caregiver engaged to care for the child;
- (v) the cost of any medical assessment of any of the following persons:
  - (A) any person who desires to adopt a child;
  - (B) any biological parent of the child;
  - (C) the child;
- (vi) any traveling expenses or cost of accommodation incurred for the transfer of the physical custody of the child to a person who desires to adopt a child; or (vii) any administration, legal or application fees incurred (whether in or outside Singapore) in the course of obtaining immigration facilities, registering or re-registering the child's birth or obtaining an adoption order (whether in or outside Singapore) in respect of the child;

(c) any other payment or other reward that may be prescribed by the regulations.

(3) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

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### **Use of fraud, duress, undue influence or other improper means to obtain consent to adoption, etc.**

56.—(1) A person must not, whether or not an adoption application in respect of a child has been made, do any thing fraudulently to induce, or use any duress, undue influence or other improper means with the knowledge that it will induce or is likely to induce, any of the following:

- (a) the agreement of a relevant person of a child to offer or refrain from offering the child for adoption in Singapore;
- (b) the transfer of the physical custody of a child, or the custody or care and control of a child, with a view to the child's adoption in Singapore;
- (c) the consent of a relevant person of a child required under section 26 or the revocation of the consent.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

(3) Where any consent of a relevant person of a child is obtained in contravention of subsection (1)(c) (whether or not any person has been convicted of an offence under subsection (2) in relation to the consent), the court may make a declaration that the consent is void.

(4) Nothing in subsection (3) affects the validity of any adoption order or interim order that has been made before the court makes a declaration mentioned in that subsection.

### **Restriction on placement of child, etc.**

57.—(1) Unless the requirements in subsection (3) are met, a potential adopter must not —

- (a) reside with a child for whom an adoptive parent is being sought; or
- (b) spend any amount of time with a child for whom an adoptive parent is being sought for the purpose of considering whether to adopt the child.

(2) An adoption agency, a relevant person of a child for whom an adoptive parent is being sought, any employee or contractor of an adoption agency, or any person assisting a relevant person to care for the child, must not transfer the physical custody of the child to a potential adopter who does not meet the requirements in subsection (3), for the purpose of enabling the potential adopter to—

- (a) reside with the child; or
- (b) spend any amount of time with the child for the purpose of considering whether to adopt the child.

(3) For the purposes of subsections (1) and (2), the requirements are as follows:

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(a) in a case where the child is a citizen or permanent resident of Singapore — the potential adopter holds a valid and favourable ASA described in section 14;

(b) in any other case —

(i) the potential adopter holds a valid and favourable ASA described in section 14;  
and

(ii) either —

(A) the child is authorised or permitted to remain in Singapore by virtue of a dependant's pass issued by the Controller of Immigration for the purposes of adoption upon an application by the potential adopter; or

(B) an in-principle approval of an application by the potential adopter for the pass mentioned in sub-paragraph (A) has been granted by the Controller of Immigration in respect of the child.

(4) Subsections (1) and (2) do not apply —

(a) where the potential adopter or the spouse of the potential adopter and the child are within the prohibited degrees of consanguinity;

(b) where the child is a stepson or stepdaughter of the potential adopter;

(c) where the potential adopter is a care-giver to whom the child is committed under a voluntary care agreement under the Children and Young Persons Act 1993 or any order under section 54(1)(b) or 56(2)(a), or section 56(2)(a) as applied by section 57, of that Act;

(d) in any other circumstances as may be prescribed by the regulations; or

(e) in any particular case permitted by the Guardian-in-Adoption.

(5) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

(6) Where a potential adopter is residing with a child for whom an adoptive parent is being sought, the requirements in subsection (3) are not met and the exceptions in subsection (4) do not apply, the court may, upon the application of the Guardian-in-Adoption, order the potential adopter to deliver the child to the physical custody of a suitable person recommended by the Guardian-in-Adoption within the time specified by the court.

(7) To avoid doubt, the court may make an order in relation to a child under subsection (6) regardless of whether any person has been convicted of any offence under subsection (5) in relation to the child.

(8) For the purposes of enforcing an order under subsection (6), the court may direct the bailiff to seize the child from the physical custody of any person or from any place and deliver the child to the physical custody of the suitable person mentioned in that subsection.

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(9) Where an order under subsection (6) is made, the court may also make any additional order as the court deems fit to facilitate the change in the physical custody of the child.

(10) Any person who, without reasonable excuse, fails to comply with an order under subsection (6) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

(11) In this section and section 58 —

“care-giver”, in relation to a child for whom an adoptive parent is being sought, has the meaning in relation to a child or young person given by section 2(1) of the Children and Young Persons Act 1993;

“potential adopter” means any individual who desires to adopt a child and has —

(a) attended a pre-adoption briefing described in section 12;

(b) made an application to an authorised adoption agency for an ASA;

(c) communicated to an adoption agency that the individual desires to adopt a child;

(d) communicated to a relevant person of a child that the individual desires to adopt the child;

(e) made an application for a dependant’s pass to be issued by the Controller of Immigration for the purposes of adoption; or

(f) made an adoption application.

### **Offence of providing false information, etc., in connection with ASA or Guardian-in-Adoption’s affidavit**

59.—(1) If —

(a) a person provides a document or makes a statement (whether orally, in writing or any other way) or gives information to —

(i) the Guardian-in-Adoption —

(A) in connection with the discharge of the functions or duties, or the exercise of the powers, of the Guardian-in-Adoption under section 15, 17, 19, 27 or 29;

(B) pursuant to a duty imposed on that person under section 22(2) or 30 to notify the Guardian-in-Adoption of a material change in circumstances; or

(C) pursuant to an order of the court under section 34(1); or

(ii) an authorised adoption agency —

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(A) in connection with the discharge of the functions or duties, or the exercise of the powers, of the authorised adoption agency under section 14, 15, 19 or 29; or

(B) pursuant to a duty imposed on that person under section 22(1) or (2) to notify the authorised adoption agency of a material change in circumstances; and

(b) the document, statement or information is false or misleading, or the document, statement or information omits a matter or thing without which the document, statement or information (as the case may be) is false or misleading,

the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Subsection (1) does not apply if the document, statement or information is not false or misleading in a material particular, or if the document, statement or information did not omit any matter or thing without which the document, statement or information (as the case may be) is false or misleading in a material particular.

(3) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person has taken all reasonable steps to ensure the authenticity or accuracy of the document, statement or information.

### **Duty to report offences to Guardian-in-Adoption**

60.—(1) Any of the following persons who knows or has reason to suspect that an offence under this Part (except this section) or section 43, 48 or 65 has been committed in connection with the adoption or proposed adoption of a child, must report to the Guardian-in-Adoption or an authorised officer as soon as practicable the facts and circumstances on which the person's knowledge or suspicion is based:

(a) an adoption agency or any employee or contractor of an adoption agency;

(b) a relevant person of the child;

(c) an advocate or solicitor who is acting for any person in relation to an adoption application in respect of the child;

(d) any employee of the advocate or solicitor mentioned in paragraph (c) or of a law corporation, law firm or limited liability law partnership who is assisting the advocate or solicitor in the matter mentioned in that paragraph.

(2) A person who has engaged the services of an adoption agency for the proposed adoption of any child and who knows or has reason to suspect that an offence under this Part (except this section) or section 43, 48 or 65 has been committed —

(a) by the adoption agency or any employee or contractor of the adoption agency; or

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(b) in connection with the child that the person desires to adopt, must report to the Guardian-in-Adoption or an authorised officer as soon as practicable the facts and circumstances on which the person's knowledge or suspicion is based.

(3) Any person who fails to comply with subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) in the case of a second or subsequent conviction — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) In proceedings against an individual for an offence under subsection (3), it is not a defence for the individual to rely on —

(a) the common law privilege against self-incrimination or exposure to the imposition of a penalty; or

(b) any rule of law relating to legal professional privilege or any other privilege, or the public interest.

(5) However, any information in a report made by an individual under subsection (1) or (2) is not admissible in evidence against the individual in any criminal proceeding other than a proceeding for an offence under section 59(1) or 65(1) or section 177 of the Penal Code 1871, if the information might in fact tend to incriminate the individual.

(6) In this section, “advocate and solicitor”, “law corporation”, “law firm” and “limited liability law partnership” have the meanings given by section 2(1) of the Legal Profession Act 1966.

### **Offence of obstruction**

64. A person who refuses to give access to, or obstructs, hinders or delays the Guardian-in-Adoption or an authorised officer in the discharge of his or her duties, or the exercise of his or her powers, under this Part shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) in the case of a second or subsequent conviction — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

### **Offence of providing false information, etc., in connection with this Part**

65.—(1) If —

(a) a person provides a document or makes a statement (whether orally, in writing or any other way) or gives information to the Guardian-in-Adoption or an authorised officer in connection with the discharge of the duties, or the exercise of the powers, of the Guardian-in-Adoption or authorised officer under this Part; and



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(b) the document, statement or information is false or misleading, or the document, statement or information omits a matter or thing without which the document, statement or information is false or misleading, the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Subsection (1) does not apply if the document, statement or information is not false or misleading in a material particular, or if the document, statement or information did not omit any matter or thing without which the document, statement or information is false or misleading in a material particular.

(3) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person has taken all reasonable steps to ensure the authenticity or accuracy of the document, statement or information.