

Key points on Finns Law Legislation

- The Statutes Amendment (Rights of Foster Parents, Guardians and Kinship Carers) Act 2016 is an Act to amend the Births, Deaths and Marriages Registration Act 1996 and the Family and Community Services Act 1972.
- The original Bill was first introduced on 07th August 2014 and was assented to by the Governor on 17th March 2016.
- The Bill took 18 months to pass through and was supported by both the major parties, Liberal and Labor.
- During this 18 months, at least 9 sets of amendments were made to produce the final Act we see today.
- The Statutes Amendment (Rights of Foster Parents, Guardians and Kinship Carers) Act 2016 provides carers who have become an Other Person Guardian (OPG) for their foster child, the opportunity to be listed on a separate line of the Death Certificate if a child were to die whilst in their care.
- The Act also gives the Chief Executive of the Department, the authority to assist with the funeral arrangements of a child in care, if it is required.
- The Act will come into effect, 6 months after its assent, therefore on 17th September 2016.

South Australia

Statutes Amendment (Rights of Foster Parents, Guardians and Kinship Carers) Act 2016

An Act to amend the *Births, Deaths and Marriages Registration Act 1996* and the *Family and Community Services Act 1972*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Rights of Foster Parents, Guardians and Kinship Carers) Act 2016*.

2—Commencement

This Act will come into operation 6 months after the day on which it is assented to by the Governor.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Births, Deaths and Marriages Registration Act 1996*

4—Insertion of Part 6 Division 3A

Part 6—after Division 3 insert:

Division 3A—Notification by court appointed guardians

38A—Notification by court appointed guardians

- (1) A person may give notice to the Registrar that a person named in the notice was a court appointed guardian (other than a parent) of a person who has died at the time of the death.
- (2) A notice under subsection (1) must—
 - (a) be given as soon as reasonably practicable after the death of the deceased; and
 - (b) be in writing in a form approved by the Registrar; and
 - (c) include a copy of the order of the Youth Court of South Australia placing the child under the guardianship of the person named in the notice; and
 - (d) include the information required by the Registrar.
- (3) The Registrar may require a person giving notice under subsection (1)—
 - (a) to provide further specified information or documents within a specified time; and
 - (b) to verify, by statutory declaration, information provided for the purposes of the notice.

- (4) In this section—

court appointed guardian means a person (other than a Minister) to whom guardianship of another person is given by the Youth Court of South Australia under section 38(1)(d) of the *Children's Protection Act 1993*.

5—Amendment of section 39—Registration

Section 39—after subsection (2) insert:

- (3) If the Registrar has received a notice under section 38A, the Registrar must include the name of the guardian of the deceased named in the notice in the entry of the Register relating to the death of the deceased.

Part 3—Amendment of *Family and Community Services Act 1972*

6—Insertion of section 85

After section 84 insert:

85—Agreement for funeral arrangements of child under care

(1) If—

- (a) a child who is under the guardianship of a court appointed guardian or the Minister, or of whom the Minister has custody, dies while in the care of an approved carer; and
- (b) the approved carer and the person who is responsible for arranging the deceased's funeral and for the disposal of the deceased's remains disagree about those arrangements,

the Chief Executive Officer may, at the request of 1 or both of the parties, endeavour to assist the parties to reach an agreement about those arrangements.

(2) In this section—

approved carer means—

- (a) an approved foster parent; or
- (b) a court appointed guardian; or
- (c) a person who, under a scheme established by the Department, maintains and cares for a child in the person's home for the purposes of this Act or the *Children's Protection Act 1993*;

court appointed guardian means a person (other than a Minister) to whom guardianship of another person is given by the Youth Court of South Australia under section 38(1)(d) of the *Children's Protection Act 1993*.