



New South Wales

Adoption Amendment Regulation 2009

under the

Adoption Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Adoption Act 2000*.

LINDA BURNEY, MP
Minister for Community Services

Explanatory note

The object of this Regulation is to prescribe the selection criteria to be used by the Department of Community Services and accredited adoption service providers when assessing the suitability of prospective adoptive parents. These criteria will replace the current criteria, which were published in the Gazette in 1999.

The Regulation also removes a redundant savings provision in relation to existing adoption agencies.

This Regulation is made under the *Adoption Act 2000*, including sections 45 and 208 (the general regulation-making power).

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Clause 1 Adoption Amendment Regulation 2009

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1 Name of Regulation

This Regulation is the *Adoption Amendment Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Adoption Regulation 2003

[1] Clause 3 Definitions

Omit the definition of *selection criteria*. Insert instead in alphabetical order:

prescribed selection criteria means the criteria referred to in clause 12.

[2] Clause 5 Saving of existing private adoption agencies

Omit the clause.

[3] Clause 12

Omit the clause. Insert instead:

12 Criteria for assessment of applicants

For the purposes of section 45 (1) (a) of the Act, the relevant decision-maker is to have regard to the following matters when assessing the suitability of a person to be approved to adopt, and in the selection of a person to adopt, a child under the Act:

- (a) the person's health, including emotional, physical and mental health,
- (b) the person's age and maturity,
- (c) the person's skills and life experience, in relation to the person's ability to undertake parenting tasks and attend to the specific needs of an adopted child,
- (d) the person's capacity to provide a stable, secure and beneficial emotional and physical environment during the child's upbringing until the child reaches social and emotional independence,
- (e) the person's financial circumstances, in relation to the person's capacity to adequately provide for the child's needs,
- (f) the person's capacity to support the maintenance of the child's cultural identity and religious faith (if any),
- (g) the person's appreciation of the importance of and capacity to facilitate:
 - (i) contact with the child's birth parents and family, and
 - (ii) exchange of information about the child with the child's birth parents and family,

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- (h) the general stability of the person's character and the person's criminal history (if any),
- (i) the stability and quality of the person's relationship with his or her spouse (if any) and between the person, his or her spouse (if any) and other members of the person's family and household,
- (j) the criminal history (if any) of the person's spouse (if any) and other members of the person's household,
- (k) if the person has had the care of a child before the application, whether the person has shown an ability to provide a stable, secure and beneficial emotional and physical environment for the child.

[4] Clause 13 Assessment of applicants for adoption in NSW

Insert "prescribed" before "selection criteria" in clause 13 (3).

[5] Clause 13 (3A)

Insert after clause 13 (3):

- (3A) If the relevant decision-maker is a principal officer, the relevant decision-maker may (instead of having regard to the prescribed selection criteria) have regard to any criteria to assess the suitability of applicants to adopt a child notified to the Director-General in accordance with clauses 16 and 16A of Schedule 1.

[6] Schedule 1 Conditions of accreditation for adoption service providers

Insert after clause 16 (2) (b):

- (c) any change in the criteria that are used to assess the suitability of applicants to adopt a child.

[7] Schedule 1, clause 16A

Insert after clause 16:

16A Notification of criteria for assessment of applicants for adoption

- (1) An accredited adoption service provider must notify the Director-General of particulars of the criteria used to assess the suitability of applicants to adopt a child (if different from the prescribed selection criteria).
- (2) An accredited adoption service provider that was accredited before the commencement of the *Adoption Amendment Regulation 2009* must comply with subclause (1) within 28 days of that commencement.

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- (3) Until the date that is 28 days after the commencement of the *Adoption Amendment Regulation 2009*, a reference in clause 13 (3A) to criteria notified to the Director-General is taken to include criteria referred to in clause 5 (3) of this Regulation as in force immediately before the commencement of the *Adoption Amendment Regulation 2009*.