



New South Wales

Adoption Legislation Amendment (Overseas Adoption) Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to enable New South Wales residents who adopt a child overseas to have that adoption registered and have a post-adoption birth certificate issued for the adopted child, provided that the adoption is recognised under NSW law and was arranged by the Department of Family and Community Services. The foreign countries in which adoptions are recognised are countries that are party to the Hague Convention on Intercountry Adoption and countries prescribed under Commonwealth regulations providing for intercountry adoption bilateral arrangements.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Schedule 1 Amendment of Adoption Act 2000 No 75

Schedule 1 [1] requires the Director-General of the Department of Family and Community Services to notify the Registrar of Births, Deaths and Marriages of the details of a recognised foreign country adoption if the adoption was organised by or under the authority of the Director-General. Proposed amendments to the *Births, Deaths and Marriages Registration Act 1995* will result in the Registrar being required to register the adoption in the Births, Deaths and Marriages Register and issue a post-adoption birth certificate.

Schedule 1 [2] provides for the making of savings and transitional regulations consequent on the enactment of any Act that amends the *Adoption Act 2000*.

Schedule 1 [3] extends the new requirement for the notification of a recognised foreign country adoption to adoptions completed before the commencement of the proposed Act, but only if a written request is made by the adoptive parents or the adopted child (if over 18). Notification will be automatic for recognised foreign country adoptions finalised after the commencement of the amendments.

Schedule 2 Amendment of Births, Deaths and Marriages Registration Act 1995 No 62

Schedule 2 [1] and [2] extend the current duty to register adoptions to include recognised foreign country adoptions organised by or under the authority of the Director-General of the Department of Family and Community Services.

Schedule 2 [3] corrects a cross-reference.

Schedule 2 [4] makes a consequential amendment.

Schedule 2 [5] requires the Registrar of Births, Deaths and Marriages to issue a single certificate (an adopted person's birth record) certifying particulars contained in an entry relating to the birth of a person and particulars relating to an adoption notified under the proposed amendments to the *Adoption Act 2000*.

Schedule 3 Amendment of Adoption Regulation 2003

Schedule 3 [1] and [2] make consequential amendments to the *Adoption Regulation 2003*.



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No. , 2013

A Bill for

An Act to amend the *Adoption Act 2000*, the regulations under that Act and the *Births, Deaths and Marriages Registration Act 1995* in relation to the registration of adoptions granted in foreign countries.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Adoption Legislation Amendment (Overseas Adoption) Act 2013*.

3

2 Commencement

4

This Act commences on the date of assent to this Act.

5

Schedule 1	Amendment of Adoption Act 2000 No 75	1
[1] Section 130A		2
Insert after section 130:		3
130A Functions of Director-General in relation to overseas adoptions		4
(1) The Director-General must give the Registrar a record of an adoption that is recognised under section 108 or 113 if the adoption was organised by or under the authority of the Director-General.		5 6 7
(2) The record given to the Registrar must contain the information and particulars prescribed by the regulations and must be accompanied by a copy of the adoption compliance certificate issued for the adoption.		8 9 10
(3) The Director-General may require the adoptive parent or adoptive parents of an adopted child, or the adopted child if the child has attained the age of 18 years, to provide the Director-General with such information or documents relating to the adoption or the identification of the adopted child as the Director-General may reasonably require.		11 12 13 14 15
(4) The Director-General is not required to give the Registrar a record of an adoption under this section (and the Registrar is not required to register the adoption under the <i>Births, Deaths and Marriages Registration Act 1995</i>) if the Director-General is not able to ascertain the information and particulars that the record is required to contain.		16 17 18 19 20
[2] Schedule 3 Savings, transitional and other provisions		21
Omit clause 1 (1). Insert instead:		22
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.		23 24
[3] Schedule 3		25
Insert at the end of the Schedule with appropriate Part and clause numbering:		26
Part	Provision consequent on enactment of Adoption Legislation Amendment (Overseas Adoption) Act 2013	27 28 29
	Birth certificates for recognised foreign country adoptions	30
(1) Section 130A extends to an adoption granted before the commencement of that section (so as to require the giving of a record in respect of such an adoption to the Registrar) but only if a written request for the record to be given is made to the Director-General by:		31 32 33 34
(a) the adoptive parent or adoptive parents of the child, or		35
(b) if the child has attained the age of 18 years—the child.		36
(2) The amendments made by the <i>Adoption Legislation Amendment (Overseas Adoption) Act 2013</i> to the <i>Births, Deaths and Marriages Registration Act 1995</i> extend to an adoption that was granted before the commencement of section 130A of this Act if the Director-General gives a record under that section to the Registrar in respect of the adoption.		37 38 39 40 41

Schedule 2	Amendment of Births, Deaths and Marriages Registration Act 1995 No 62	1 2
[1] Section 23 Duty to register adoptions		3
	Insert “or recognised foreign adoption order” after “State adoption order” in section 23 (1).	4
[2] Section 23 (3)		5
	Insert in alphabetical order:	6
	<i>recognised foreign adoption order</i> means an adoption of a child that is recognised under section 108 or 113 of the <i>Adoption Act 2000</i> but only if the adoption was organised by or under the authority of the Director-General of the Department of Family and Community Services.	7 8 9 10
[3] Section 23 (3)		11
	Omit “order under section 117” from the definition of <i>State adoption order</i> .	12
	Insert instead “declaration under section 117”.	13
[4] Section 25 Record of adoption or discharge of adoption to be noted in birth registration		14 15
	Omit “section 130 or 132” from section 25 (2). Insert instead “Chapter 7”.	16
[5] Section 49 Issue of certificate		17
	Omit “section 130 or 132” from section 49 (4). Insert instead “Chapter 7”.	18

Schedule 3	Amendment of Adoption Regulation 2003	1
[1]	Clause 43 Prescribed particulars and information	2
	Insert “130A (2),” after “130 (a),” wherever occurring in clause 43 (1) and (2).	3
[2]	Clause 43 (3)	4
	Insert after clause 43 (2):	5
	(3) A record under section 130A (2) of the Act must include a statement confirming that the adoption was organised by or under the authority of the Director-General.	6 7 8