

## ADOPTION OF CHILDREN (AMENDMENT) BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Adoption of Children Act 1965—

- (a) to provide that in those circumstances where the only person whose consent is required to the adoption of a child is that of the child, the child need only have attained the age of 12 years rather than the age of 15 years as at present; and
- (b) to increase penalties under that Act and the regulations.

---

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** is a formal provision that gives effect to the Schedule of amendments.

### SCHEDULE 1—AMENDMENTS

#### Consents to adoptions

Section 26 (Consents of certain persons to adoptions required) of the Principal Act provides that the Supreme Court shall not make an order for the adoption of a child unless consent to the adoption has been given by the appropriate person or persons ascertained in accordance with the section or the Court is satisfied there is no such appropriate person. Schedule 1 (1) amends section 26 (4A) to lower from 15 years to 12 years the age at which a child's consent is the only consent required for the adoption of the child.

The amended section 26 (4A) will read as follows:

(4A) In the case of a child who, before the making of the adoption order—

(a) has attained the age of [*15 years*] **12 years** but not the age of 18 years; and

(b) has been brought up, maintained and educated as a child of the applicant or applicants for the period of 5 years before the making of the application,

the only appropriate person is the child.

(Matter to be omitted is shown in italics and matter to be inserted is shown in bold type.)

*Adoption of Children (Amendment) 1988*

---

Schedule 1 (2) makes a consequential amendment to section 33 (Consent of child) of the Principal Act.

(Note: Since the date of the last reprint of the Principal Act, namely, 27 May 1987, sections 26 and 33 of the Principal Act have been amended in relevant respects by Schedule 1(5) and (7) to the Adoption of Children (Amendment) Act 1987 No. 174. Those amendments are now in force.)

**Penalties**

Schedule 1 (3) (a) amends section 60 (Penalties and proceedings for offences) of the Principal Act to increase the penalty for an offence against the Principal Act to 10 penalty units or imprisonment for 12 months, or both. (Under section 56 of the Interpretation Act 1987 the value of a penalty unit is currently \$100.)

The amended section 60 (1) will read as follows:

(1) Any person guilty of an offence against this Act is liable to a penalty not exceeding [*four hundred dollars or to imprisonment for six months*] **10 penalty units or to imprisonment for 12 months, or both.**

Schedule 1 (4) amends section 73 (Regulations) of the Principal Act to increase the penalty for an offence against the regulations made under the Principal Act to 5 penalty units.

The amended section 73 (1) will read (in part) as follows:

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to—

...

(g) imposing penalties, not exceeding [*one hundred dollars*] **5 penalty units**, for offences against the regulations; and

**Statute law revision**

Schedule 1 (3) (b) also amends section 60 to replace obsolete references to a court of petty sessions and a stipendiary magistrate.

---