

ADOPTION OF CHILDREN (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Registration of Births, Deaths and Marriages (Adoption) Amendment Bill 1987 is cognate with this Bill.

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

- (a) to allow applications to be made to the Supreme Court for an adoption order with the consent of the Director-General of the Department of Youth and Community Services;
- (b) to expand the range of circumstances in which persons in de facto relationships may adopt children;
- (c) to provide that in certain circumstances the consent of a child who has attained the age of 15 years is the only consent required for the adoption of the child;
- (d) to limit adoptions in foreign countries which will be recognised in the State to adoptions where the adopters were resident in those countries for at least 12 months or were domiciled in those countries; and
- (e) to enable fees to be charged for certain services and instruments provided under that Act,

and to amend that Act in other minor respects.

This Bill also amends the Adoption of Children (Amendment) Act 1980 and the Miscellaneous Acts (Community Welfare) Repeal and Amendment Act 1987 as a consequence of the proposed amendments contained in the Bill.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the provisions of the proposed Act relating to foreign adoptions will commence 90 days after the date of assent. The rest of the proposed Act will commence 28 days after the date of assent.

Clause 3 defines the Principal Act.

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Clause 4 is a formal provision giving effect to the Schedule of amendments to the Principal Act.

Clause 5 repeals uncommenced provisions of the Adoption of Children (Amendment) Act 1980 which are no longer to be proceeded with.

Clause 6 amends the Miscellaneous Acts (Community Welfare) Repeal and Amendment Act 1987 as a consequence of the repeals to be effected by clause 5.

Schedule 1 (1) amends section 6 of the Principal Act to include the repealed Child Welfare Act 1923 as a "former Act" to which certain provisions of the Principal Act (for example, section 67—Restriction on inspection of records) apply.

Schedule 1 (2) amends section 18 of the Principal Act to enable an applicant for the adoption of a child to make an application, with the consent of the Director-General of the Department of Youth and Community Services, to the Supreme Court.

Schedule 1 (3) amends section 19 of the Principal Act to allow a man and woman in a de facto relationship to adopt a child if—

- (a) the relationship is of at least 3 years' duration and—
 - (i) the child has been brought up as their child for at least 2 years and the interests of the child are best served by the adoption; or
 - (ii) the child is disabled or has special needs and the interests of the child are best served by the adoption; or
- (b) the man, woman and child are Aborigines and the man and woman are recognised as being married according to their traditions.

The Court may dispense with those requirements in appropriate cases.

Schedule 1 (4) amends section 21 of the Principal Act to remove the requirement that the Supreme Court must not make an adoption order in respect of a child, in cases where the applicants are parents or relatives of the child, unless the Director-General of the Department of Youth and Community Services has made a report on the adoption.

Schedule 1 (5) amends section 26 of the Principal Act to enable the Supreme Court to dispense with the need for obtaining certain consents to the making of an adoption order in respect of a child if the child has attained the age of 15 years and has been brought up by the applicants for a period of at least 5 years.

Schedule 1 (6) amends section 32 of the Principal Act to allow the Supreme Court to dispense with certain consents to the making of an adoption order in respect of a child (other than the consent of the child) where the child was adopted in a foreign country.

Schedule 1 (7) amends section 33 of the Principal Act as a consequence of the amendment made by Schedule 1 (5).

Schedule 1 (8) amends section 46 of the Principal Act to provide that an adoption in a foreign country will only be recognised in the State if the adopters were resident in the country for at least 12 months or were domiciled in the country. The recognition of foreign adoptions made before the commencement of the more stringent requirements will not be affected.

Schedule 1 (9) amends section 61 of the Principal Act to require copies of memoranda of orders made under the Principal Act to be forwarded to the Director-General of the Department of Youth and Community Services.

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Schedule 1 (10) inserts into the Principal Act proposed section 65A which enables the Director-General of the Department of Youth and Community Services to prepare a report as to the suitability of a person who is applying for an adoption order with respect to a child who is outside Australia.

Schedule 1 (11) amends section 73 of the Principal Act to enable regulations to be made by the Governor-in-Council with respect to the form and content of assessments and with respect to the fees for registration in certain registers and for making assessments, conducting searches, providing information etc.
