



New South Wales

Adoption Amendment (Same Sex Couples) Bill 2010 (No 2)

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Adoption Act 2000* to allow couples of the same sex to adopt children. At present under that Act, a **couple** is defined to mean a man and a woman who are married or who have a de facto relationship. The Bill amends that definition, along with the definition of **spouse**, so that they include persons who are de facto partners. The definition of **de facto partner** in the *Interpretation Act 1987* refers to persons whether they are of the same sex or a different sex. The Bill will also enable the same sex de facto partner of a person who is the adoptive parent of a child to adopt that child in his or her capacity as a step parent.

The Bill also:

- (a) amends the *Anti-Discrimination Act 1977* to exempt faith-based adoption agencies (ie accredited adoption service providers that are established or controlled by a religious organisation) from the operation of section 49ZP of that Act to the extent that those agencies provide adoption services (that section makes it unlawful for a person who provides services of any kind to discriminate against another person on the ground of homosexuality by refusing to provide the other person with those services or in the terms on which the other person is provided with those services), and

- (b) makes consequential amendments to other legislation so as to enable the provision and recording of information about the adoption of children by couples of the same sex.

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 to the proposed Act.

Schedules 1 and 2 make the amendments described in the above Overview.



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New South Wales

Adoption Amendment (Same Sex Couples) Bill 2010 (No 2)

No , 2010

A Bill for

An Act to amend the *Adoption Act 2000* to enable couples of the same sex to adopt children and to make related amendments to the *Anti-Discrimination Act 1977* and certain other legislation.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Adoption Amendment (Same Sex Couples) Act 2010</i> .	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 23 Jurisdiction		2
	Omit the note at the end of section 23 (1). Insert instead:	3
	Note. Couple is defined in the Dictionary to mean 2 persons who are married to each other or who are de facto partners of each other (de facto partner is defined in section 21C (1) of the <i>Interpretation Act 1987</i> and refers to persons whether of the same sex or a different sex). The effect of the making of an adoption order is described in Part 11 of this Chapter.	4 5 6 7 8 9
[2] Section 137 Access to adoption information by relatives and others after death of adopted person or birth parent		10 11
	Omit section 137 (6).	12
[3] Dictionary, definition of “couple”		13
	Omit the definition. Insert instead:	14
	couple means 2 persons who:	15
	(a) are married to each other, or	16
	(b) are de facto partners of each other.	17
	Note. Married is defined elsewhere in this Dictionary and de facto partner is defined in section 21C (1) of the <i>Interpretation Act 1987</i> as follows:	18 19 20
	For the purposes of any Act or instrument, a person is the de facto partner of another person (whether of the same sex or a different sex) if:	21 22
	(a) the person is in a registered relationship or interstate registered relationship with the other person within the meaning of the <i>Relationships Register Act 2010</i> , or	23 24 25
	(b) the person is in a de facto relationship with the other person.	26
[4] Dictionary, definition of “de facto relationship”		27
	Omit the definition.	28
[5] Dictionary, definition of “spouse”		29
	Omit the definition. Insert instead:	30
	spouse of a person means:	31
	(a) a person to whom the person is married, or	32
	(b) the person’s de facto partner.	33
	Note. Married is defined elsewhere in this Dictionary and de facto partner is defined in section 21C (1) of the <i>Interpretation Act 1987</i> .	34 35

[6] Dictionary, definition of “step parent”

Omit the definition. Insert instead:

step parent means, in relation to a particular person, another person who:

- (a) is not a birth parent or adoptive parent of the particular person, and
- (b) is married to the particular person’s birth parent or adoptive parent or is the de facto partner of the birth parent or adoptive parent.

Note. *Married* is defined elsewhere in this Dictionary and *de facto partner* is defined in section 21C (1) of the *Interpretation Act 1987*.

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Schedule 2	Amendment of other legislation	1
2.1	Anti-Discrimination Act 1977 No 48	2
	Section 49ZP Provision of goods and services	3
	Insert at the end of the section:	4
	(2) Subsection (1) does not apply to or in respect of the provision of adoption services by any of the following:	5
		6
	(a) Sydney Anglican Home Mission Society Council,	7
	(b) CatholicCare,	8
	(c) any other organisation that is established or controlled by a religious organisation and that is accredited under the <i>Adoption Act 2000</i> to provide adoption services.	9
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2.2	Adoption Regulation 2003	12
	Clause 43 Prescribed particulars and information	13
	Omit clause 43 (1) (b) (iv)–(ix). Insert instead:	14
	(iv) the full name of the child’s adoptive parent or parents (including, if applicable, the original surname of the child’s adoptive mother),	15
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	(v) the occupation of the child’s adoptive parent or parents,	18
		19
	(vi) the age and place of birth of the child’s adoptive parent or parents,	20
		21
2.3	Births, Deaths and Marriages Registration Regulation 2006	22
	Clause 6 Registration of adoptions	23
	Omit clause 6 (b)–(e). Insert instead:	24
	(b) the full name of the child’s adoptive parent or parents (including, if applicable, the original surname of the child’s adoptive mother),	25
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		27
	(c) the occupation and usual place of residence of the child’s adoptive parent or parents,	28
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Adoption Amendment (Same Sex Couples) Bill 2010 (No 2)

Schedule 2 Amendment of other legislation

(d) the date of birth (or age) and place of birth of the child's
adoptive parent or parents,

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