

Passed by both Houses



New South Wales

Adoption Amendment (Same Sex Couples) Bill 2010

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2010*



New South Wales

Adoption Amendment (Same Sex Couples) Bill 2010

Act No , 2010

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.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Adoption Amendment (Same Sex Couples) Act 2010*.

2 Commencement

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

Schedule 1 Amendment of Adoption Act 2000 No 75

[1] Section 23 Jurisdiction

Omit the note at the end of section 23 (1). Insert instead:

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 *Interpretation Act 1987* 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.

[2] Sections 45A and 45B

Insert after section 45:

45A Background information about prospective adoptive parents to be made available to birth parents

- (1) If an application to adopt a child is made by a couple, background information relating to the couple that is obtained by the Director-General or principal officer in connection with the application is, at the request of the birth parents of the child, to be provided to the birth parents before any adoption order may be made in relation to that child.
- (2) In this section, **background information** relating to a couple includes information about the couple's social and cultural background, religious beliefs, domestic relationship and living arrangements, but does not include any information that identifies the couple.

45B Consideration of wishes of parents consenting to adoption

- (1) A general consent of the parent of a child to the adoption of the child, as referred to in section 53, may express the wishes of the parent as to the preferred background, beliefs or domestic relationship of any prospective adoptive parents of the child.
- (2) Nothing in the *Anti-Discrimination Act 1977* prevents the Director-General or a principal officer of an adoption service provider from identifying (consistently with the best interests of the child) prospective adoptive parents who reflect those wishes in the adoption selection process under this Part.

[3] Section 137 Access to adoption information by relatives and others after death of adopted person or birth parent

Omit section 137 (6).

[4] Dictionary, definition of “couple”

Omit the definition. Insert instead:

couple means 2 persons who:

- (a) are married to each other, or
- (b) are de facto partners of each other.

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

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:

- (a) the person is in a registered relationship or interstate registered relationship with the other person within the meaning of the *Relationships Register Act 2010*, or
- (b) the person is in a de facto relationship with the other person.

[5] Dictionary, definition of “de facto relationship”

Omit the definition.

[6] Dictionary, definition of “spouse”

Omit the definition. Insert instead:

spouse of a person means:

- (a) a person to whom the person is married, or
- (b) the person’s de facto partner.

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

[7] 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*.

Schedule 2 Amendment of other legislation

2.1 Anti-Discrimination Act 1977 No 48

Section 59A

Insert after section 59:

59A Adoption services

- (1) Nothing in Part 3A or 4C affects any policy or practice of a faith-based organisation concerning the provision of adoption services under the *Adoption Act 2000* or anything done to give effect to any such policy or practice.

Note. Section 8 (1) (a) of the *Adoption Act 2000* requires decision makers to follow the principle that, in making a decision about the adoption of a child, the best interests of the child, both in childhood and in later life, must be the paramount consideration.

- (2) Subsection (1) does not apply to discrimination against any child who is or may be adopted.
- (3) In this section, *faith-based organisation* means an organisation that is established or controlled by a religious organisation and that is accredited under the *Adoption Act 2000* to provide adoption services.

2.2 Adoption Regulation 2003

Clause 43 Prescribed particulars and information

Omit clause 43 (1) (b) (iv)–(ix). Insert instead:

- (iv) the full name of the child's adoptive parent or parents (including, if applicable, the original surname of the child's adoptive mother),
- (v) the occupation of the child's adoptive parent or parents,
- (vi) the age and place of birth of the child's adoptive parent or parents,

2.3 Births, Deaths and Marriages Registration Regulation 2006

Clause 6 Registration of adoptions

Omit clause 6 (b)–(e). Insert instead:

- (b) the full name of the child's adoptive parent or parents (including, if applicable, the original surname of the child's adoptive mother),

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- (c) the occupation and usual place of residence of the child's adoptive parent or parents,
- (d) the date of birth (or age) and place of birth of the child's adoptive parent or parents,