



New South Wales

Adoption Amendment (Institute of Open Adoption Studies) Bill 2016

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Adoption Act 2000* (the *Adoption Act*) and the *Children and Young Persons (Care and Protection) Act 1998* (the *Care and Protection Act*) to make provision for the disclosure of information relating to certain persons involved in adoption and out-of-home care to a prescribed research organisation, and
- (b) to amend the *Adoption Regulation 2015* to prescribe as a research organisation the Institute of Open Adoption Studies, University of Sydney, and
- (c) to amend the *Adoption Act* to enable a suitably qualified person employed or nominated by an approved organisation to provide the Children's Court with a report in relation to the adoption of a child.

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.

Schedule 1 Amendment of Adoption Act 2000 No 75

Schedule 1 [4] inserts proposed section 175A into the *Adoption Act* to enable the Secretary of the Department of Family and Community Services (the *Department*) to enter into arrangements with a prescribed research organisation for the purposes of permitting the disclosure to the organisation

of information held by the Department or an accredited adoption service provider about an affected person. An affected person is a person who is involved in an adoption or prospective adoption as a birth parent, adoptive parent or child, or a person involved in out-of-home care as an authorised carer or child.

The Secretary is not to enter into those arrangements unless satisfied that the arrangements will ensure that reasonable steps will be taken to de-identify information disclosed under the arrangements, that the information will be treated by the research organisation as confidential, that (as far as is reasonably practicable) no publication that uses or is based on the information will enable the identity of an affected person to be ascertained and that (as far as is reasonably practicable) any personal information disclosed under the arrangements will be used or dealt with in accordance with certain information protection principles set out in the *Privacy and Personal Information Protection Act 1998*. **Schedule 1 [6]** inserts a definition of **research organisation** as being an organisation prescribed by the regulations.

Schedule 1 [5] amends section 208 of the Adoption Act to enable regulations to be made for or with respect to the disclosure of information under the arrangements referred to in proposed section 175A, including any procedures or requirements in relation to that disclosure and any requirements on any organisation to which the information is disclosed.

Schedule 1 [2] and [3] amend the Adoption Act to enable a suitably qualified person employed or nominated by an approved organisation to provide the Supreme Court with a report in relation to the adoption of a child. An approved organisation is an organisation approved by the Secretary of the Department from time to time, by order in writing, to provide that report to the Supreme Court.

Schedule 1 [1] amends the note to Part 6 of Chapter 4 of the Adoption Act to make it clear that a child can be placed with the authorised carer of the child, rather than a temporary authorised carer, in the period commencing when consent to adoption is given and ending when an adoption order is made.

Schedule 2 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157

Schedule 2 [1] inserts proposed section 254A into the Care and Protection Act to enable the Secretary of the Department of Family and Community Services to enter into arrangements with a prescribed research organisation for the purposes of permitting the disclosure to the organisation of information held by the Department, the Children's Guardian, a designated agency or an accredited adoption service provider about an affected person. An affected person is a person who is involved in an adoption or prospective adoption as a birth parent, adoptive parent, young person or child, an authorised carer, a child or young person in out-of-home care or a child or young person the subject of a final care order if there is no realistic possibility of the child or young person being restored to his or her birth parents or adoptive parents (an **affected person**).

The Secretary is not to enter into those arrangements unless satisfied that the arrangements will ensure that reasonable steps will be taken to de-identify information disclosed under the arrangements, that the information will be treated by the research organisation as confidential, that (as far as is reasonably practicable) no publication that uses or is based on the information will enable the identity of an affected person to be ascertained and that (as far as is reasonably practicable) any personal information disclosed under the arrangements will be used or dealt with in accordance with certain information protection principles set out in the *Privacy and Personal Information Protection Act 1998*.

Schedule 2 [2] amends section 264 of the Care and Protection Act to enable regulations to be made for or with respect to the disclosure of information under the arrangements referred to in proposed section 254A, including any procedures or requirements in relation to that disclosure and any requirements on any organisation to which the information is disclosed.

Schedule 3 Amendment of Adoption Regulation 2015

Schedule 3 inserts proposed clause 132A into the *Adoption Regulation 2015* to prescribe the Institute of Open Adoption Studies, University of Sydney, as a research organisation for the purposes of the Adoption Act.