



New South Wales

Adoption Legislation Amendment (Integrated Birth Certificates) Bill 2020

Explanatory note

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

Overview of Bill

The objects of this Bill are to amend the *Adoption Act 2000* and the *Births, Deaths and Marriages Registration Act 1995* as follows—

- (a) to provide that the Registrar of Births, Deaths and Marriages may issue a certificate containing the information recorded for an adoption on the Births, Deaths and Marriages Register and the corresponding information, if any, known to the Registrar about the birth contained on the Register (an *integrated birth certificate*),
- (b) to require an integrated birth certificate to be issued by the Registrar for an adoption registered on or after the commencement of the proposed Act in addition to existing requirements,
- (c) to provide for access entitlements in relation to an integrated birth certificate with respect to both adoptions given effect to by an adoption order made on or after the commencement of the *Adoption Amendment Act 2008* and adoptions given effect to by an adoption order made before the commencement of that Act,
- (d) to specify the way an application for an integrated birth certificate is to be made,
- (e) to provide for the management of a contact veto in relation to the supply of an integrated birth certificate,
- (f) to make other consequential amendments.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Adoption Act 2000 No 75

Schedule 1[1] amends the definition of *presumptive father* to include the person shown on the adopted person's integrated birth certificate as the father of the adopted person at birth.

Schedule 1[2], [3] and [7]–[9] entitle an adopted person to receive an integrated birth certificate, subject to the consent requirements for an adopted person who is less than 18 years of age.

Schedule 1[4]–[6] and [10]–[13] provide for the circumstances in which an adoptive parent of a person or the birth parent of an adopted person is entitled to receive the adopted person's integrated birth certificate or, in the case of a birth parent of an adopted person who is less than 18 years of age, other information about the adopted person.

Schedule 1[14] provides for the supply, or authority to supply, to a relative or spouse of a deceased adopted person or a deceased birth parent, or to another person, the integrated birth certificate of the deceased adopted person or birth parent.

Schedule 1[15] specifies the way an application for an integrated birth certificate is to be made.

Schedule 1[16] provides that an integrated birth certificate is personal information in relation to a person.

Schedule 1[17]–[20] clarify when a contact veto takes effect, the undertaking required if a contact veto is in force and how those provisions apply in relation to the supply of an integrated birth certificate if a contact veto is lodged and the contact veto against contact is in force.

Schedule 1[21] inserts the definition of *integrated birth certificate* into the Dictionary.

Schedule 2 Amendment of Births, Deaths and Marriages Registration Act 1995 No 62

Schedule 2[1] provides for the information that is to be contained in 2 separate birth certificates that may be issued by the Registrar of Births, Deaths and Marriages if a person's adoption is registered under the *Births, Deaths and Marriages Registration Act 1995*, including an integrated birth certificate. If an adoption is registered on or after the commencement of the proposed Act, both birth certificates are required to be issued to the person. It also provides that the fee for only 1 certificate is payable in particular circumstances.

Schedule 2[2] inserts a note to indicate the Registrar may need to issue more than 1 certificate in certain circumstances.



New South Wales

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New South Wales

Adoption Legislation Amendment (Integrated Birth Certificates) Bill 2020

No. , 2020

A Bill for

An Act to amend the *Adoption Act 2000* and the *Births, Deaths and Marriages Registration Act 1995* to introduce integrated birth certificates for adopted persons and allow access to integrated birth certificates to adopted persons and other persons; and for other purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Adoption Legislation Amendment (Integrated Birth Certificates) Act 2020*.

3

4

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

6

Schedule 1 Amendment of Adoption Act 2000 No 75

| | |
|---|------------------|
| [1] Section 133A Definition of “presumptive father” | 2 |
| Insert after paragraph (a) of the definition of <i>presumptive father</i> — | 3 |
| (a1) is shown on the adopted person’s integrated birth certificate as the adopted person’s father at birth, in accordance with the information prescribed under section 17(1) of the <i>Births, Deaths and Marriages Registration Act 1995</i> , or | 4 5 6 7 |
| [2] Section 133C Adopted person’s rights | 8 |
| Insert after section 133C(1)(a)— | 9 |
| (a1) the person’s integrated birth certificate if a record of the adoption of the person is registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> , and | 10 11 12 |
| [3] Section 133C(3) | 13 |
| Insert “, integrated birth certificate” after “original birth certificate”. | 14 |
| [4] Section 133D Adoptive parent’s rights | 15 |
| Insert after section 133D(1)(a)— | 16 |
| (a1) the adopted person’s integrated birth certificate if a record of the adoption of the person is registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> , and | 17 18 19 |
| [5] Section 133E Birth parent’s rights | 20 |
| Insert after section 133E(1)(a)— | 21 |
| (a1) the integrated birth certificate of the adopted person if a record of the adoption of the person is registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> , and | 22 23 24 |
| [6] Section 133F Discretion to supply other information to birth parents | 25 |
| Insert “or the integrated birth certificate” after “certificate” in section 133F(1). | 26 |
| [7] Section 134 Adopted person’s rights | 27 |
| Insert after section 134(1)(a)— | 28 |
| (a1) the person’s integrated birth certificate if a record of the adoption of the person is registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> , and | 29 30 31 |
| [8] Section 134(3) | 32 |
| Insert “integrated birth certificate,” after “original birth certificate,”. | 33 |
| [9] Section 134(3)(a) | 34 |
| Insert “, integrated birth certificate” after “original birth certificate”. | 35 |
| [10] Section 135 Adoptive parent’s rights | 36 |
| Insert after section 135(1)(a)— | 37 |
| (a1) the adopted person’s integrated birth certificate if a record of the adoption of the person is registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> , and | 38 39 40 |

| | |
|---|----------------|
| [11] Section 135(3) | 1 |
| Insert “, integrated birth certificate” after “original birth certificate”. | 2 |
| [12] Section 136 Birth parent’s rights | 3 |
| Insert after section 136(1)(a)— | 4 |
| (a1) the integrated birth certificate of the adopted person if a record of the adoption of the person is registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> , and | 5 6 7 |
| [13] Section 136(4) | 8 |
| Insert “or integrated birth certificate” after “certificate”. | 9 |
| [14] Section 137 Access to adoption information by relatives and others after death of adopted person or birth parent | 10 11 |
| Omit “the original or amended birth certificate” from section 137(1)(a). | 12 |
| Insert instead “the original birth certificate, amended birth certificate or integrated birth certificate”. | 13 14 |
| [15] Section 138 Application for supply of adoption information | 15 |
| Insert after section 138(3)— | 16 |
| (3A) An application for the supply of an adopted person’s integrated birth certificate under this Part is to be made in writing to the Registrar. | 17 18 |
| [16] Section 145 Definitions | 19 |
| Insert “, integrated birth certificate” after “amended birth certificate” in paragraph (a) of the definition of <i>personal information</i> . | 20 21 |
| [17] Section 159 When contact veto takes effect | 22 |
| Omit section 159(2). Insert instead— | 23 |
| (2) A contact veto takes effect on the earlier of— | 24 |
| (a) if details of the contact veto are endorsed on the authority to supply adoption information—when the details are endorsed on the authority, or | 25 26 27 |
| (b) if details of the contact veto are endorsed on the original birth certificate or amended birth certificate—when the details are endorsed on the certificate, or | 28 29 30 |
| (c) the expiration of the relevant period. | 31 |
| [18] Section 164 Undertakings not to contact person who has lodged contact veto | 32 |
| Omit “or amended birth certificate endorsed with a contact veto against contact by the applicant” from section 164(1). | 33 34 |
| Insert instead “, amended birth certificate or integrated birth certificate if there is a contact veto against contact by the applicant,”. | 35 36 |
| [19] Section 188 Veto on contact—offences | 37 |
| Omit paragraph (a) of the definition of <i>information recipient</i> in section 188(4). | 38 |
| Insert instead— | 39 |

| | | |
|-------------|---|----------------------------|
| (a) | who has received an authority to supply adoption information, an original birth certificate, an amended birth certificate or an integrated birth certificate, if there is a contact veto against contact by the person that remains in force, or | 1 2 3 4 |
| [20] | Section 199 Entitlements of disabled persons | 5 |
| | Omit section 199(3)(a). Insert instead— | 6 |
| (a) | refuse to supply any birth certificate to a person acting on behalf of a person with a disability, if there is a contact veto against contact by the person with the disability that remains in force, or | 7 8 9 |
| [21] | Dictionary | 10 |
| | Insert in alphabetical order— | 11 |
| | <i>integrated birth certificate</i> , in relation to an adopted person, means a certificate certifying the following— | 12 13 |
| (a) | the particulars relating to the adoption of the person based on the registered record kept under the <i>Births, Deaths and Marriages Registration Act 1995</i> , | 14 15 16 |
| (b) | if the person's birth is registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> —the particulars relating to the birth of the person registered under section 17 of that Act, | 17 18 19 |
| (c) | if the person's birth is not registered under the <i>Births, Deaths and Marriages Registration Act 1995</i> —the information, if any, recorded on the Register pursuant to section 43(2)(b) of that Act that the Registrar considers appropriate for inclusion in the certificate in relation to the birth of the person. | 20 21 22 23 24 |

**Schedule 2 Amendment of Births, Deaths and Marriages
Registration Act 1995 No 62** 1
2

[1] Section 25A 3

Omit the section. Insert instead— 4

25A Issuing birth certificates for adopted persons 5

(1) After a person's adoption is registered under this Part, a birth certificate issued by the Registrar for the person must contain— 6
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(a) the relevant information recorded in the Register pursuant to section 24(2) in place of the corresponding information recorded in the Register pursuant to section 17(1) (a *post-adoption birth certificate*), or 8
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(b) the relevant information recorded in the Register pursuant to section 24(2) and the following additional information (an *integrated birth certificate*)— 11
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(i) the corresponding information recorded in the Register pursuant to section 17(1), 14
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(ii) if no information is recorded in the Register pursuant to section 17(1)—information, if any, recorded on the Register pursuant to section 43(2)(b) that the Registrar considers appropriate for inclusion in the certificate in relation to the birth of the person. 16
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(2) A post-adoption birth certificate must not include any information that indicates that the person has been adopted. 20
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(3) If an adoption is registered on or after the commencement of the *Adoption Legislation Amendment (Integrated Birth Certificates) Act 2020*— 22
23

(a) a post-adoption birth certificate issued by the Registrar must be accompanied by an integrated birth certificate, and 24
25

(b) an integrated birth certificate issued by the Registrar must be accompanied by a post-adoption birth certificate. 26
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(4) This section applies whether or not the person's birth has been registered under this Act. 28
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(5) A person who is issued a post-adoption birth certificate and an integrated birth certificate in accordance with subsection (3) is only required to pay the fee for a single certificate. 30
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(6) If the Registrar has issued a person a post-adoption birth certificate and an integrated birth certificate in accordance with subsection (3), a subsequent application to the Registrar may be for either or both of the certificates. 33
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[2] Section 49 Issue of certificate 36

Insert at the end of section 49(1)— 37

Note. See section 25A(3) in relation to the requirement for the Registrar to issue more than 1 certificate for adopted persons. 38
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