

# CONCURRENCE COPY

## ADOPTION OF CHILDREN (AMENDMENT) BILL, 1982

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### EXPLANATORY NOTE

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

The Supreme Court (Adoption of Children) Amendment Bill, 1982, is cognate with this Bill.

The objects of this Bill are—

- (a) to amend certain provisions of the Adoption of Children (Amendment) Act, 1980, which have not yet commenced and which amend the Adoption of Children Act, 1965, so as to constitute the Adoption Tribunal and to specify its functions—
    - (i) to provide that the jurisdiction of the Adoption Tribunal to dispense with service of a notice of an application for an adoption order may generally be exercised by the President or a Deputy President sitting alone (Schedule 1 (2));
    - (ii) to make it clear that the Tribunal may give oral decisions (Schedule 1 (3));
    - (iii) to provide that appeals against decisions of the Tribunal may only be made by way of case stated to the Supreme Court (Schedule 1 (4), (5) and (6)); and
    - (iv) to provide that a member of the Adoption Tribunal, while acting as such a member, shall have the immunities of a Judge of the Supreme Court (Schedule 1 (7));
  - (b) to enable certain amendments made by the Adoption of Children (Amendment) Act, 1980, to come into operation before the Adoption Tribunal is constituted (Schedule 1 (1), (8) and (9)); and
  - (c) to make other provisions of a minor, consequential or ancillary nature.
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**ADOPTION OF CHILDREN (AMENDMENT) BILL, 1982**

No.           , 1982.

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**A BILL FOR**

An Act to amend the Adoption of Children (Amendment) Act, 1980, to make further provision with respect to the functions of the Adoption Tribunal.

[MR K. J. STEWART—1 *April*, 1982.]

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See also Supreme Court (Adoption of Children) Amendment Bill, 1982.

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*Adoption of Children (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

**1.** This Act may be cited as the "Adoption of Children (Amendment) Act, 1982".

**Amendment of Act No. 78, 1980.**

**2.** The Adoption of Children (Amendment) Act, 1980, is amended in 10 the manner set forth in Schedule 1.

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**SCHEDULE 1.**

(Sec. 2.)

**AMENDMENTS TO THE ADOPTION OF CHILDREN (AMENDMENT) ACT,  
1980.**

15 (1) (a) Section 2 (3)—

Omit "2 and 3 (Schedule 3 (7), (8), (11) and (18) (c) excepted)", insert instead "and 2".

(b) Section 2 (3)—

20

After "such day", insert "being not earlier than the day by which all of the provisions of Schedule 3 have commenced".

*Adoption of Children (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE ADOPTION OF CHILDREN  
(AMENDMENT) ACT, 1980—*continued.*

## (c) Section 2 (4)—

5 Omit the subsection, insert instead:—

(4) The several provisions of Schedule 3 (Schedule 3 (18) (c) excepted) shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

10 (2) Section 6E of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

(a) Omit subsection (5), insert instead:—

(5) In respect of—

15 (a) an application for an adoption order which is not opposed; or

(b) an application to dispense with the giving of a notice under section 22 (1),

20 the Tribunal shall, except in such cases or classes of cases, if any, as the President may otherwise determine or unless the Director, the principal officer of a private adoption agency or an applicant otherwise requests, be constituted by the President or a Deputy President sitting alone.

25 (b) From subsection (6), omit “unless the President otherwise determines”, insert instead “except in such cases or classes of cases, if any, as the President may otherwise determine”.

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*Adoption of Children (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ADOPTION OF CHILDREN  
(AMENDMENT) ACT, 1980—*continued.*

- 5 (3) Section 6L of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—
- (a) After “shall be”, insert “recorded”.
- (b) At the end of the section, insert:—
- 10 (2) Nothing in subsection (1) prevents the Tribunal from giving an oral decision in respect of any proceedings before it which includes the reasons for the decision of each member before whom the proceedings were heard.
- (3) An oral decision given by the Tribunal under subsection (2) shall be recorded in accordance with subsection (1).
- 15 (4) Section 6Q of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—
- (a) Omit “sections 6R and 6s”, insert instead “section 6R”.
- 20 (b) After “conclusive”, insert “and shall not be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called in question by any court of judicature on any account whatsoever”.
- 25 (5) Section 6R of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—
- Omit “Court of Appeal” wherever occurring, insert instead “Supreme Court”.

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*Adoption of Children (Amendment).*


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SCHEDULE 1—*continued.*
 AMENDMENTS TO THE ADOPTION OF CHILDREN  
 (AMENDMENT) ACT, 1980—*continued.*

- 5 (6) Section 6s of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

Omit the section, insert instead:—

**Certain supervisory jurisdiction excluded.**

- 10 6s. Without limiting section 6Q, no proceeding, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief shall lie in respect of any decision of the Tribunal or any proceeding or any step or other matter involved in any proceeding before the Tribunal.

- 15 (7) Section 6w of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

(a) Omit “, a member”.

(b) Omit “, member” wherever occurring.

(c) At the end of the section, insert:—

- 20 (2) A member, while acting as a member, shall have the immunities of a Judge of the Supreme Court.

- (8) (a) Schedule 2—

After the matter relating to section 14 (2), insert:—

- 25 Sections 21 (1A), (1B), (1C); 21A (1), (2); 22 (1A); 31A (3); 31B; 31C (2), (3), (4), (5); 31D (1), (2); 31E; 32 (1A); 38 (2A); 41 (1A); 65; 73 (1) (b). | Court (wherever occurring) | Tribunal

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*Adoption of Children (Amendment).*

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**SCHEDULE 1—continued.**

**AMENDMENTS TO THE ADOPTION OF CHILDREN  
(AMENDMENT) ACT, 1980—continued.**

**(b) Schedule 2—**

5 Before the matter relating to section 46 (3), insert:—

Sections 31c (1); 31d (1); 32 (1) (h).	nominated officer (wherever occurring)	Registrar
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**(9) (a) Schedule 3—**

10 Omit "Tribunal" wherever occurring, insert instead "Court".

**(b) Schedule 3—**

Omit "Registrar" wherever occurring, insert instead "nominated officer".

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982



**ADOPTION OF CHILDREN (AMENDMENT) ACT, 1982, No. 37**

**New South Wales**



ANNO TRICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 37, 1982.**

An Act to amend the Adoption of Children (Amendment) Act, 1980, to make further provision with respect to the functions of the Adoption Tribunal. [Assented to, 5th May, 1982.]

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See also Supreme Court (Adoption of Children) Amendment Act, 1982.

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*Adoption of Children (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Adoption of Children (Amendment) Act, 1982".

**Amendment of Act No. 78, 1980.**

2. The Adoption of Children (Amendment) Act, 1980, is amended in the manner set forth in Schedule 1.

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SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE ADOPTION OF CHILDREN (AMENDMENT) ACT,  
1980.

(1) (a) Section 2 (3)—

Omit ", 2 and 3 (Schedule 3 (7), (8), (11) and (18) (c) excepted)", insert instead "and 2".

(b) Section 2 (3)—

After "such day", insert ", being not earlier than the day by which all of the provisions of Schedule 3 have commenced,".

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*Adoption of Children (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ADOPTION OF CHILDREN  
(AMENDMENT) ACT, 1980—*continued.*

(c) Section 2 (4)—

Omit the subsection, insert instead:—

(4) The several provisions of Schedule 3 (Schedule 3 (18) (c) excepted) shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(2) Section 6E of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

(a) Omit subsection (5), insert instead:—

(5) In respect of—

(a) an application for an adoption order which is not opposed; or

(b) an application to dispense with the giving of a notice under section 22 (1),

the Tribunal shall, except in such cases or classes of cases, if any, as the President may otherwise determine or unless the Director, the principal officer of a private adoption agency or an applicant otherwise requests, be constituted by the President or a Deputy President sitting alone.

(b) From subsection (6), omit “unless the President otherwise determines”, insert instead “except in such cases or classes of cases, if any, as the President may otherwise determine”.

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*Adoption of Children (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ADOPTION OF CHILDREN  
(AMENDMENT) ACT, 1980—*continued.*

- (3) Section 6L of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

(a) After “shall be”, insert “recorded”.

(b) At the end of the section, insert:—

(2) Nothing in subsection (1) prevents the Tribunal from giving an oral decision in respect of any proceedings before it which includes the reasons for the decision of each member before whom the proceedings were heard.

(3) An oral decision given by the Tribunal under subsection (2) shall be recorded in accordance with subsection (1).

- (4) Section 6Q of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

(a) Omit “sections 6R and 6S”, insert instead “section 6R”.

(b) After “conclusive”, insert “and shall not be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called in question by any court of judicature on any account whatsoever”.

- (5) Section 6R of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

Omit “Court of Appeal” wherever occurring, insert instead “Supreme Court”.

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*Adoption of Children (Amendment).*


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SCHEDULE 1—*continued.*
 AMENDMENTS TO THE ADOPTION OF CHILDREN  
 (AMENDMENT) ACT, 1980—*continued.*

- (6) Section 6s of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

Omit the section, insert instead:—

**Certain supervisory jurisdiction excluded.**

6s. Without limiting section 6Q, no proceeding, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief shall lie in respect of any decision of the Tribunal or any proceeding or any step or other matter involved in any proceeding before the Tribunal.

- (7) Section 6w of the Adoption of Children Act, 1965, as to be inserted by section 5 (1) of, and Schedule 1 (3) to, the Adoption of Children (Amendment) Act, 1980—

(a) Omit “, a member”.

(b) Omit “, member” wherever occurring.

(c) At the end of the section, insert:—

(2) A member, while acting as a member, shall have the immunities of a Judge of the Supreme Court.

- (8) (a) Schedule 2—

After the matter relating to section 14 (2), insert:—

Sections 21 (1A), (1B), (1C); 21A (1), (2); 22 (1A); 31A (3); 31B; 31C (2), (3), (4), (5); 31D (1), (2); 31E; 32 (1A); 38 (2A); 41 (1A); 65; 73 (1) (b).	Court ( <i>wherever occurring</i> )	Tribunal
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*Adoption of Children (Amendment).*


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SCHEDULE 1—*continued.*
 AMENDMENTS TO THE ADOPTION OF CHILDREN  
 (AMENDMENT) ACT, 1980—*continued.*

## (b) Schedule 2—

Before the matter relating to section 46 (3), insert:—

Sections 31c (1); 31d (1); 32 (1) (h).	nominated officer <i>(wherever occurring)</i>	Registrar
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## (9) (a) Schedule 3—

Omit "Tribunal" wherever occurring, insert instead "Court".

## (b) Schedule 3—

Omit "Registrar" wherever occurring, insert instead "nominated officer".

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 5th May, 1982.*

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 BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982



