

**ADOPTION OF CHILDREN (DE FACTO RELATIONSHIPS)
AMENDMENT BILL, 1984**

EXPLANATORY NOTE

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

This Bill is cognate with the De Facto Relationships Bill, 1984.

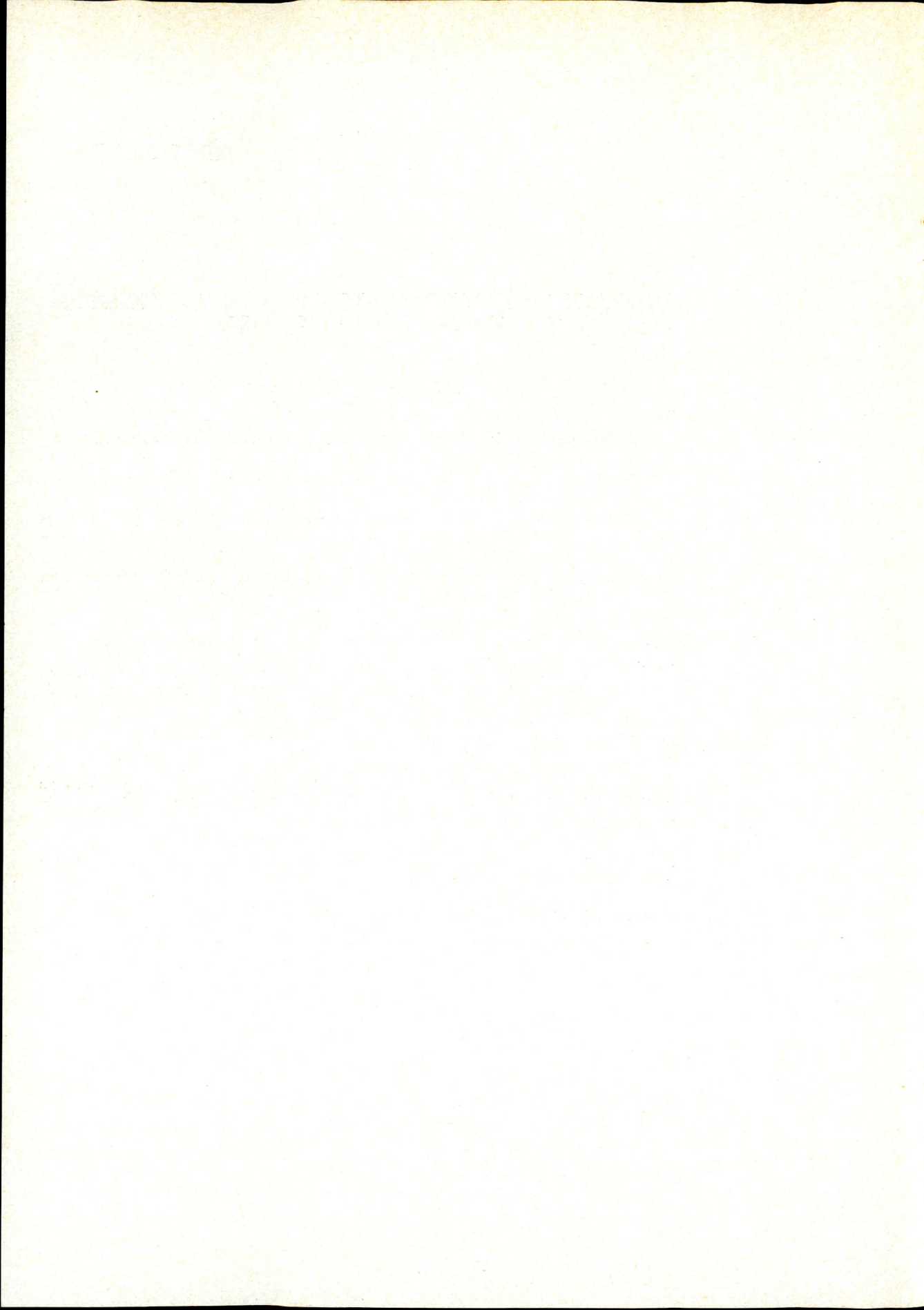
The object of this Bill is to amend the Adoption of Children Act, 1965, to enable the making, in certain circumstances, of an adoption order in favour of a man and a woman who are living together in a de facto relationship (and who have, in general, so lived together for a period of not less than 3 years before the date on which the application for the adoption order is made), being an adoption order relating to—

- (a) a child of the man or the woman; or
- (b) a child who is a relative of the man or the woman and who has been brought up, maintained and educated by the man and the woman as their child,

(Schedule 1 (1) (b)).

The Bill specifies the circumstances in which the consent of the father of an ex-nuptial child to be adopted is required before an adoption order may be made in favour of any person or persons (Schedule 1 (1) (b)).

The Bill also makes a consequential amendment to the Adoption of Children (Amendment) Act, 1980 (Schedule 2).



**ADOPTION OF CHILDREN (DE FACTO RELATIONSHIPS)
AMENDMENT BILL, 1984**

No. , 1984.

A BILL FOR

An Act to amend the Adoption of Children Act, 1965, to enable the making, in certain circumstances, of an adoption order in favour of a man and a woman who are de facto partners and to specify the circumstances in which the consent of the father of an ex-nuptial child is required to the adoption of the child; and to amend the Adoption of Children (Amendment) Act, 1980.

Adoption of Children (De Facto Relationships) Amendment 1984

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 (De Facto Relationships) Amendment Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984.

Principal Act.

15 3. The Adoption of Children Act, 1965, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

20 SCHEDULE 2.—AMENDMENT TO THE ADOPTION OF CHILDREN (AMENDMENT) ACT, 1980.

Amendment of Act No. 23, 1965.

5. The Principal Act is amended in the manner set forth in Schedule 1.

*Adoption of Children (De Facto Relationships) Amendment 1984***Effect of commencement of Act No. 78, 1980.**

6. (1) Where the day appointed and notified under section 2 (3) of the Adoption of Children (Amendment) Act, 1980, is earlier than or the same as the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984, section 19 (1A) and (1B) of the Principal Act as to be inserted by section 5 of, and Schedule 1 (1) (b) to, this Act is amended by omitting the word "Court" wherever occurring and by inserting instead the word "Tribunal".

(2) Where the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984, is earlier than the day appointed and notified under section 2 (3) of the Adoption of Children (Amendment) Act, 1980, the Adoption of Children (Amendment) Act, 1980, is amended in the manner set forth in Schedule 2.

SCHEDULE 1.

(Sec. 5.)

15

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 19 (1)—

Omit "subsection", insert instead "subsections (1A) and".

(b) Section 19 (1A), (1B)—

20

After section 19 (1), insert:—

25

(1A) The Court may make an adoption order in favour of a man and a woman who are living together as husband and wife on a bona fide domestic basis although not married to each other if, without derogating from the other provisions of this Part, the Court is satisfied—

(a) that, except as provided by subsection (1B), the man and the woman have so lived together for a period of not less than 3 years before the date on which the application for the adoption order is made;

Adoption of Children (De Facto Relationships) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) that the child in respect of whom the application for the adoption order is made—

- 5 (i) is the child of the man or the woman; or
 (ii) is the relative of the man or the woman and has been brought up, maintained and educated by the applicants as their child; and

10 (c) that the welfare and interests of the child will be better served by the making of an adoption order than by the making of any other order relating to the guardianship or custody of the child.

15 (1B) Where the Court is of the opinion that, having regard to the circumstances of the case, the welfare and interests of the child will be better served by doing so, the Court may make an adoption order referred to in subsection (1A) where the man and woman who are living together on a bona fide domestic basis although not married to each other have so lived together for a period of less than 3 years before the date on which the
 20 application for the adoption order is made.

(c) Section 19 (4)—

After “jointly”, insert “or a man and a woman referred to in subsection (1A) jointly”.

(2) Section 26 (3)—

25 Omit the subsection, insert instead:—

(3) In the case of—

(a) a child (not being a child to whom paragraph (b) applies)—

- (i) who has not previously been adopted; and
 30 (ii) whose parents were not married to each other at the time of the child’s conception and have not subsequently married each other,

the appropriate persons are every person who is the mother or guardian of the child; and

Adoption of Children (De Facto Relationships) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) a child—

- 5 (i) who has not previously been adopted;
- (ii) whose parents were not married to each other at the
time of the child's conception and have not
subsequently married each other ; and
- 10 (iii) whose parents lived together after the child's birth
as husband and wife on a bona fide domestic basis
in a household of which the child formed part,
the appropriate persons are every person who is a parent or
guardian of the child.
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SCHEDULE 2.

(Sec. 6 (2).)

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

Schedule 2—

From Column 1, omit "19 (2), (3), (4);", insert instead "19 (1A),
(1B), (2), (3), (4);".

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**ADOPTION OF CHILDREN (DE FACTO RELATIONSHIPS)
AMENDMENT ACT, 1984, No. 148**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 148, 1984.

An Act to amend the Adoption of Children Act, 1965, to enable the making, in certain circumstances, of an adoption order in favour of a man and a woman who are de facto partners and to specify the circumstances in which the consent of the father of an ex-nuptial child is required to the adoption of the child; and to amend the Adoption of Children (Amendment Act, 1980. [Assented to, 10th December, 1984.]

Adoption of Children (De Facto Relationships) Amendment 1984

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 (De Facto Relationships) Amendment Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984.

Principal Act.

3. The Adoption of Children Act, 1965, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENT TO THE ADOPTION OF CHILDREN (AMENDMENT) ACT, 1980.

Amendment of Act No. 23, 1965.

5. The Principal Act is amended in the manner set forth in Schedule 1.

Adoption of Children (De Facto Relationships) Amendment 1984

Effect of commencement of Act No. 78, 1980.

6. (1) Where the day appointed and notified under section 2 (3) of the Adoption of Children (Amendment) Act, 1980, is earlier than or the same as the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984, section 19 (1A) and (1B) of the Principal Act as to be inserted by section 5 of, and Schedule 1 (1) (b) to, this Act is amended by omitting the word "Court" wherever occurring and by inserting instead the word "Tribunal".

(2) Where the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984, is earlier than the day appointed and notified under section 2 (3) of the Adoption of Children (Amendment) Act, 1980, the Adoption of Children (Amendment) Act, 1980, is amended in the manner set forth in Schedule 2.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 19 (1)—

Omit "subsection", insert instead "subsections (1A) and".

(b) Section 19 (1A), (1B)—

After section 19 (1), insert:—

(1A) The Court may make an adoption order in favour of a man and a woman who are living together as husband and wife on a bona fide domestic basis although not married to each other if, without derogating from the other provisions of this Part, the Court is satisfied—

(a) that, except as provided by subsection (1B), the man and the woman have so lived together for a period of not less than 3 years before the date on which the application for the adoption order is made;

*Adoption of Children (De Facto Relationships) Amendment 1984*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) that the child in respect of whom the application for the adoption order is made—
 - (i) is the child of the man or the woman; or
 - (ii) is the relative of the man or the woman and has been brought up, maintained and educated by the applicants as their child; and
- (c) that the welfare and interests of the child will be better served by the making of an adoption order than by the making of any other order relating to the guardianship or custody of the child.

(1B) Where the Court is of the opinion that, having regard to the circumstances of the case, the welfare and interests of the child will be better served by doing so, the Court may make an adoption order referred to in subsection (1A) where the man and woman who are living together on a bona fide domestic basis although not married to each other have so lived together for a period of less than 3 years before the date on which the application for the adoption order is made.

(c) Section 19 (4)—

After “jointly”, insert “or a man and a woman referred to in subsection (1A) jointly”.

(2) Section 26 (3)—

Omit the subsection, insert instead:—

- (3) In the case of—
 - (a) a child (not being a child to whom paragraph (b) applies)—
 - (i) who has not previously been adopted; and
 - (ii) whose parents were not married to each other at the time of the child’s conception and have not subsequently married each other,

the appropriate persons are every person who is the mother or guardian of the child; and

*Adoption of Children (De Facto Relationships) Amendment 1984*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) a child—

- (i) who has not previously been adopted;
 - (ii) whose parents were not married to each other at the time of the child's conception and have not subsequently married each other; and
 - (iii) whose parents lived together after the child's birth as husband and wife on a bona fide domestic basis in a household of which the child formed part,
- the appropriate persons are every person who is a parent or guardian of the child.

SCHEDULE 2.

(Sec. 6 (2).)

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

Schedule 2—

From Column 1, omit "19 (2), (3), (4);", insert instead "19 (1A), (1B), (2), (3), (4);".

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 10th December, 1984.*





