

Adoption Bill 2009

Explanatory Notes for Amendments to be moved during consideration in detail by the Honourable Phil Reeves MP

Short title

The short title of the Bill is the Adoption Bill 2009.

Objective of the amendments

The objectives of the amendments are to:

- clarify that a regulation may be made to prescribe a fee for the supervision of a child from another country who has been, or is to be, adopted by Queensland adoptive parents; and
- update a consequential amendment to acknowledge the repeal of the *Freedom of Information Act 1992* and the passage of the *Right to Information Act 2009*.

Reasons for the objective

Clause 198 of the Bill applies in relation to children brought to Queensland from another country to be adopted in Queensland under arrangements made between the chief executive and the competent authority for the other country. This clause provides that the chief executive must supervise the child's wellbeing and interests while the child is in the custody of the prospective adoptive parents, in the circumstances stated in the clause.

Clause 298 of the Bill applies in relation to a child who has already been adopted in a country other than Australia or New Zealand; the adoption has been in force for less than one year; and the child is present in Queensland. This clause provides that the chief executive may supervise the wellbeing and interests of the child for a period up to one year, starting on the day the child arrives in Queensland.

In each case, the process of supervising the wellbeing and best interests of the child during the period after they have been placed with their

prospective adoptive parents, or adoptive parents, incurs significant costs. The supervision of the child is also necessary to enable the Government to fulfil its obligation to provide regular assessment reports about an adopted child's progress to the relevant overseas authorities for children adopted through the Intercountry Adoption Program.

The supervision fee was introduced in 2007 to partially recoup the costs of undertaking these activities. The amendments will clarify that the fee may continue to be prescribed by a regulation made under the new Adoption Act.

There is a consequential amendment in schedule 2 the Adoption Bill 2009 to the *Freedom of Information Act 1992* which replaces a reference to the to-be-repealed *Adoption of Children Act 1964* with a reference to the *Adoption Act 2009*. The *Freedom of Information Act 1992* has been repealed and the cross-reference to the *Adoption of Children Act 1964* is now contained in the *Right to Information Act 2009*. The amendment will update the consequential amendment accordingly.

Consistency with Fundamental Legislative Principles

The amendments do not conflict with Fundamental Legislative Principles.

Consultation

The Department of the Premier and Cabinet has been consulted and supports the amendments.

Notes on Provisions

Amendment 1 amends clause 198 of the Bill to insert subsections (3) and (4), which provide that the chief executive may, by written notice, require the prospective adoptive parents to pay the fee prescribed under a regulation for the supervision. The notice must state the time, not less than 30 days after the notice is given, by which the fee must be paid.

Amendment 2 amends clause 298 of the Bill to insert subsections (2A) and (2B), which provide that if the chief executive carries out the supervision, the chief executive may, by written notice, require the child's

adoptive parents to pay the fee prescribed under a regulation for the supervision. The notice must state the time, not less than 30 days after the notice is given, by which the fee must be paid.

Amendment 3 amends the consequential amendments set out in schedule 2 of the Bill. Since the Adoption Bill 2009 was introduced into Parliament, the *Freedom of Information Act 1992* has been repealed and the *Right to Information Act 2009* has been passed and commenced operation. The reference to the *Adoption of Children Act 1964* that was in the *Freedom of Information Act 1992* is now contained in the *Right to Information Act 2009*. The amendment updates the consequential amendment to reflect this fact.

© State of Queensland 2009