

Adoption (Extension of Eligibility Criteria) Amendment Regulation 2016

Explanatory notes for SL 2016 No. 206

made under the

Adoption Act 2009

General Outline

Short title

Adoption (Extension of Eligibility Criteria) Amendment Regulation 2016

Authorising law

Section 328 of the *Adoption Act 2009*

Policy objectives and the reasons for them

The objective of the *Adoption (Extension of Eligibility Criteria) Amendment Regulation 2016* (Amendment Regulation) is to support the commencement of the *Adoption and Other Legislation Amendment Act 2016* (AOLA Act) which amends the *Adoption Act 2009*.

The AOLA Act extends eligibility criteria in the *Adoption Act 2009* to allow same-sex couples, single persons and persons undergoing fertility treatment to express an interest in adopting a child.

The Amendment Regulation proposes minor amendments to the *Adoption Regulation 2009* (Adoption Regulation) to align the Adoption Regulation with amendments in the AOLA Act which allow single persons to express an interest and be selected and assessed as suitable adoptive parents.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by amending the Regulation to ensure that the expansion of the eligibility criteria is reflected throughout its provisions.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the authorising law, the *Adoption Act 2009*.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways in which the policy objectives can be achieved other than by a regulation amendment.

Benefits and costs of implementation

Broadening the eligibility requirements for the expression of interest register to allow same sex couples, single persons and persons undergoing fertility treatment to have their names entered and remain on the expression of interest register may increase the administrative burden for the Department of Communities, Child Safety and Disability Services (DCCSDS). Any additional administration costs will be absorbed within current budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

DCCSDS conducted comprehensive public consultation for the review of the operation of the *Adoption Act 2009*. A total of 356 individuals and organisations contributed to the public consultation process which was conducted over six months from 17 September 2015 to 31 March 2016.

Further targeted consultation was undertaken on an exposure draft Bill with non-government stakeholders, including persons with personal experiences of adoption in Queensland.

The Queensland Productivity Commission was consulted and advised that no further analysis is required under the Regulatory Impact Statement system guidelines.

Notes on provisions

Clause 1 provides the Amendment Regulation may be cited as the *Adoption (Extension of Eligibility Criteria) Amendment Regulation 2016*.

Clause 2 provides the Amendment Regulation amends the *Adoption Regulation 2009* (the Adoption Regulation).

Clause 3 amends section 4 of the Adoption Regulation to replace references to couples with references to persons, to clarify that the requirement for expressing an interest under section 71 of the *Adoption Act 2009* applies to single persons as well as to couples.

Clause 4 replaces section 5 of the Adoption Regulation to clarify that the requirement to demonstrate the ability to provide personal care for a child for at least one year after the child is placed in the person's care, is applied to single persons as well as to couples.

Clause 5 amends section 6 of the Adoption Regulation to ensure that the requirement to demonstrate financial capacity for an intercountry adoption applies to single persons as well as to couples. The ability for a couple to demonstrate joint financial capacity is maintained.

Clause 6 amends section 16 of the Adoption Regulation by replacing the definition of 'applicable person'. The definition is replaced to clarify the intent of the section by referring to persons who have been given information under part 11, division 2 or 3 of the *Adoption Act 2009* (request for information provisions); as well as a birth parent of an adopted person. This will ensure the expansion of circumstances introduced by the *Adoption and Other Legislation Amendment Act 2016* in which a person may be provided adoption information, will apply to the Adoption Regulation.