

NORTHERN TERRITORY OF AUSTRALIA

ADOPTION OF CHILDREN REGULATIONS

As in force at 1 January 1997

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 1997

ADOPTION OF CHILDREN REGULATIONS

Regulations under the Adoption of Children Act

1 Citation

These Regulations may be cited as the Adoption of Children Regulations.

2 Commencement

These Regulations shall come into operation on the commencement of the *Adoption of Children Act 1994*.

3 Interpretation

- (1) In these Regulations, unless the contrary intention appears, ***adopted person*** means a person in respect of whom an order for adoption has been made (whether made before or after the commencement of the Act) under a law in force in the Territory.
- (2) A reference in these Regulations to a form by number is a reference to the form so numbered in the Schedule.
- (3) Where, in these Regulations, the Registrar of Births, Deaths and Marriages is required to sign his name or add the date in relation to the making of an entry, or a notation in respect of an entry, in a register and the register is kept by electronic means, it shall be sufficient compliance with that requirement if the Registrar of Births, Deaths and Marriages enters identifying symbols equivalent to his signature and to the date.

4 Application

- (1) An application by a person alone or a couple under section 17(1) of the Act (including the persons referred to in section 19 of the Act as applying to have their names included on the adoption list) shall be in accordance with Form 1.

-
- (2) The Minister may require that a person who makes an application for the purposes of adopting a child under section 17(1), in support of the application:
- (a) provides to the Minister:
 - (i) a medical report in a form approved by the Minister;
 - (ii) written authorization for the Minister to obtain a criminal history report in respect of the person from the Police Force of the Northern Territory of Australia; or
 - (iii) written authorization for the release of medical information to the Minister; or
 - (b) undergoes a medical examination by a medical practitioner approved by the Minister for that purpose.

5 Information to be given to person consenting

For the purposes of section 30(2) of the Act, the information in respect of the effect of an order for adoption and the alternatives to adoption an approved person shall give to the person who is required to consent to an adoption to whom he or she has given counselling shall be in accordance with Form 2.

6 Consent to adoption

- (1) A consent to the adoption of a child shall be in accordance with Form 3.
- (2) A person consenting to the adoption of a child shall sign and date the instrument of consent, or shall acknowledge signing and dating the instrument of consent, in the presence of 2 witnesses who shall be:
 - (a) a Commissioner for Oaths, a justice of the peace, a barrister or solicitor (other than a barrister or solicitor acting for the person consenting to the adoption) or a public notary; and
 - (b) an approved person (except that person shall not be the approved person who counselled the person consenting to the adoption in accordance with section 30(1) of the Act).
- (3) The witnesses referred to in subregulation (2) shall each attest and subscribe the instrument of consent in the presence of the person consenting to the adoption, but a form of attestation is not necessary.

7 Form of recording wishes of relinquishing parent

- (1) A parent of a child he or she intends to relinquish for adoption may record his or her wishes in respect of:
 - (a) the suitability of a person or persons to adopt the child;
 - (b) arrangements with the adoptive parent or parents in respect of access to the child or the giving and receiving of information about the child; or
 - (c) the receipt of notice of the making of an application for an order for the adoption of the child in order to determine whether or not he or she wishes to be a party to the adoption proceedings,in accordance with Form 4.
- (2) A parent who records his or her wishes in accordance with Form 4 may vary, amend or revoke that instrument:
 - (a) in respect of a matter referred to in subregulation (1)(a) or (b), at any time while the child is not allocated to a person or persons wishing to adopt the child; or
 - (b) in respect of a matter referred to in subregulation (1)(c), at any time before an application for an order for adoption is made to the Court.

8 Register of Adoptions

- (1) A memorandum of an order for adoption or an order discharging an order for adoption shall be in accordance with Form 5.
- (2) The Registrar of Births, Deaths and Marriages shall register a memorandum referred to in subregulation (1) and received by him or her by entering in the Register of Adoptions such of the particulars in relation to the adoption of the child, ascertained from the memorandum, as he or she thinks necessary.
- (3) The Register of Adoptions or any memorandum or copy of an order for adoption, or of an order discharging an order for adoption, received by the Registrar of Births, Deaths and Marriages shall not be open for inspection.

-
- (4) Subject to regulation 10, the Registrar of Births, Deaths and Marriages shall not issue a copy of or an extract from an entry in the Register of Adoptions or a memorandum or copy of an order for adoption, or an order discharging an order for adoption to a person unless:
- (a) a court so orders;
 - (b) the Minister has, pursuant to part 6 of the Act, provided a person with information that is associated with the entry or order, and the copy, extract or memorandum of the entry or order, as the case may be, will not consist of information other than information which may be provided to that person in accordance with that Part; or
 - (c) the Registrar of Births, Deaths and Marriages is satisfied that the information comprising the copy, extract or memorandum of the entry or order, as the case may be, is properly required for the purpose of proceedings which have been instituted in a court of competent jurisdiction and the Minister agrees to the issue of a copy of or extract from the entry or memorandum for that purpose.
- (5) The Registrar of Births, Deaths and Marriages shall maintain the Register of Adoptions so that the information contained in it may be searched by reference to a name or some other identifying information.

9 Minister's certificate under section 55(2)

For the purposes of section 55(2)(a) of the Act, the Minister's certificate shall be in accordance with Form 6.

10 Issue of certificate of date of birth, &c., of person born overseas

- (1) A person may, in respect of an adopted person who was born in an overseas country, make application in writing to the Registrar of Births, Deaths and Marriages for the issue to him or her of a certificate stating particulars, as they appear from an entry in the Register of Adoptions, of:
- (a) the date of birth of the adopted person; or
 - (b) the name or names of the adoptive parent or adoptive parents, as the case may be, of the adopted person,
- or both.

-
- (2) The Registrar of Births, Deaths and Marriages shall not accept an application under subregulation (1) unless it specifies:
- (a) sufficient particulars in respect of the entry referred to in that subregulation which enable the Registrar of Births, Deaths and Marriages to identify the relevant entry; and
 - (b) except where the application is made by the person to whom the entry relates, the reason for which the certificate is required.
- (3) Subject to this regulation, the Registrar of Births, Deaths and Marriages shall, on receipt of an application duly made under subregulation (1) and the prescribed fee under the *Births, Deaths and Marriages Registration Act*:
- (a) search for the relevant entry in the Register of Adoptions; and
 - (b) issue to the person making the application a certificate which shall state only the name of the person to whom the entry relates, the date of birth of that person and the name or names of the adoptive parent or adoptive parents of that person.
- (4) Where an application for the issue of a certificate under this regulation is made by a person other than the person to whom the relevant entry in the Register of Adoptions relates, the Registrar of Births, Deaths and Marriages may refuse to issue the certificate if he or she is of the opinion that the person making the application has not a proper reason for requiring the issue of the certificate.

11 Re-registration of birth of adopted child

- (1) Where an order for the adoption of a child born in the Territory has been registered in the Register of Adoptions under regulation 8, the Registrar of Births, Deaths and Marriages shall re-register the birth of the child by entering in the Register of Births such of the following particulars as he or she is able to ascertain from the memorandum or copy of the order for adoption:
- (a) the particulars of the child's name after adoption, sex and date and place of birth;
 - (b) particulars of the adopters; and
 - (c) a notation to the entry, signed and dated by the Registrar of Births, Deaths and Marriages, to the effect that the birth of the child is registered in pursuance of this regulation.

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- (2) Where an order discharging an order for adoption, in respect of a child born in the Territory, has been registered in the Register of Adoptions under regulation 8, the Registrar of Births, Deaths and Marriages shall:
 - (a) make a notation in the Register of Births in which the birth of that child has been re-registered in pursuance of subregulation (1) to the effect that the order for adoption has been so discharged; and
 - (b) make a further registration of the birth of that child to accord with the order discharging the order for adoption.
 - (3) Where a notation referred to in subregulation (1) or (2) has been made in the Register of Births, it shall not be included on any copy of, or extract from, an entry in the Register of Births issued by the Registrar of Births, Deaths and Marriages.
 - (4) Where the Registrar of Births, Deaths and Marriages re-registers the birth of an adopted child under this regulation, he or she shall enter in the Register of Births containing the original entry of the birth a notation, signed and dated by him or her, to the effect that the birth of the child has been re-registered in pursuance of this regulation and shall, in that notation, identify the entry by which he or she re-registered of the birth.
 - (5) Where an order for adoption relates to a child who has previously been adopted, the Registrar of Births, Deaths and Marriages shall re-register the birth of the child as if the entry relating to the previous adoption of that child were the original entry of the birth of that child.

12 Memoranda of orders sent to States and other Territories

A memorandum of an order for the adoption of a child, or an order discharging such an order, whose birth the Registrar has reason to believe is registered in a State or in another Territory of the Commonwealth shall be in accordance with Form 5.

13 Correction of errors, &c., in Register of Adoptions

- (1) Where the Registrar of Births, Deaths and Marriages is satisfied that the Register of Adoptions kept by him or her contains an error or misstatement in, or an omission from, any particulars entered in it in pursuance of these Regulations, he or she may correct the Register of Adoptions by causing the true particulars or the particulars omitted from the Register of Adoptions, as the case may be, to be entered in the Register of Adoptions in association with the entry to which those last-mentioned particulars relate.

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- (2) Where the Registrar of Births, Deaths and Marriages makes a correction in the Register of Adoptions under subregulation (1), he or she shall sign his or her name immediately under the correction and write the date on which the correction was made.

14 Cancellation of entries in Register of Adoptions

- (1) Where the Registrar of Births, Deaths and Marriages is satisfied that an entry in the Register of Adoptions kept by him or her is false, he or she may cancel the entry by entering in association with the entry the words "Cancelled under regulation 14 of the *Adoption of Children Regulations*", signing his name immediately under those words and adding the date on which the entry was cancelled.
- (2) The Registrar of Births, Deaths and Marriages shall not cancel an entry in the Register of Adoptions kept by him or her if any error or misstatement in, or omission from, the Register of Adoptions can be corrected under regulation 13.

15 Offences relating to registration

A person shall not:

- (a) destroy, deface or damage the Register of Adoptions; or
- (b) obtain the re-registration of the birth of an adopted child otherwise than in accordance with these Regulations.

Penalty: \$5,000.

16 Notice of prohibition

- (1) For the purposes of section 65(2) of the Act, a notice of prohibition shall be in accordance with Form 7.
- (2) A person who lodges a notice of prohibition with the Minister may, at any time, revoke the notice of prohibition by notice in writing served on the Minister.
- (3) Service of the notice of revocation on the Minister under subregulation (2) shall be effected by delivering it personally, or by sending it by certified mail, to the appropriate office within the Department.
- (4) On being served the notice of revocation in accordance with subregulation (3), the Minister shall, as soon as practicable, cause a record of the details of the notice of revocation and its receipt to be made and thereupon the notice of revocation shall take effect.

Schedule

FORM 1

regulation 4

NORTHERN TERRITORY OF AUSTRALIA

section 38

Adoption of Children Act

ADOPTION APPLICATION

Please return to

Adoption and Substitute Care Unit
NT Department of Health and Community Services
PO Box 40596
CASUARINA NT 0811

Full Names of Applicant(s) (Please PRINT)

.....

Phone Work: Home:

Postal Address:

I/we apply to the Minister for Health and Community Services NT to be approved as suitable persons to adopt a child/children.

I/we understand that being approved as suitable to adopt a child does not ensure that a child will be placed with me/us for adoption.

Applicant's signature:

Applicant's signature:

...../...../19....

INFORMATION REQUIRED FROM PERSONS SEEKING APPROVAL AS SUITABLE TO ADOPT A CHILD/CHILDREN

The information you provide is designed to assist in the assessment of your suitability to adopt a child. It also includes some of the matters the Court will consider if you make an application to the Court to adopt a child.

Previous Marriages/traditional Aboriginal marriages

1. Divorce date and Number
...../...../19.... /...../19....
2. Death of Spouse – date
...../...../19.... /...../19....

Children of previous marriage/traditional Aboriginal marriage, living with you

NAME	DOB	SEX	STATUS
.....			
.....			

STATUS
Natural N
Adopted A
Fostered F

Other residents in your home

Are you able to have children?

Applicant's physical description

Education History (Schools, approx. dates attended)
.....
.....

Employment History (occupations, dates) Attach extra pages if necessary
.....
.....

Interests/Activities
.....

Community	Involvement
.....	

FINANCIAL SITUATION

Salary (gross weekly)

Other Income eg Rent, Maintenance, Interest
.....

Bank Accounts and Overdrafts (details and approx. balance)

.....

Assets (other properties, vehicles etc and values)

.....

Liabilities Commitments, hire purchase, loans, mortgage, details of monthly payments and length of debt.)

.....

TOTAL Annual Income

TOTAL Annual Expenses

Details of child you wish to adopt

Please tick one box in each category

Local Overseas Male Female Either sex

Age range: Maximum age:

Preferred ethnicity:

Would you consider a child with a minor physical disability?

Yes No

Would you consider a child with an intellectual disability?

Yes No

Would you consider siblings?

Yes No

Have you previously been refused an adoption applicant?

Yes No Yes No

If 'yes', where?

Do you have a current adoption application with another agency?

Yes No

If 'yes', where?

REFERENCES

Please give details of two referees, excluding relatives.

1. Name:

.....

Occupation:

.....

Address:

.....

2. Name:

.....

Occupation:

.....

Address:

.....

I hereby declare that the particulars show herein are true and correct

.....
Signature

...../...../19....

.....
Signature

...../...../19....

Note

You may be required to:

(a) provide:

1. a medical report
2. written authorisation for Minister to obtain a criminal history check
3. written authorisation for the release of medical information to the Minister

(b) undergo a medical examination by a medical practitioner of the Minister's choice

FORM 2

regulation 5

NORTHERN TERRITORY OF AUSTRALIA

section 30(2)

Adoption of Children Act

PRESCRIBED INFORMATION FOR PERSON CONSENTING TO
ADOPTION

THE EFFECT OF AN ORDER FOR ADOPTION

On the making of an order for the adoption of a child:

- (a) the child becomes, for all purposes and as regards all relationships (but subject to Division 7 of Part 3 of the Act and any other law in force in the Northern Territory that expressly distinguishes between birth children and adopted children), the child of the adoptive parent or parents;
- (b) existing relationships in respect of the child cease to have effect except for the purpose of determining relationships relevant to an illegal marriage or the commission of a sexual offence;
- (c) an existing appointment as guardian ceases to have effect;
- (d) a previous adoption of the child ceases to have effect;
- (e) an order as to parentage or a maintenance order (except as to arrears owing) ceases to have effect;
- (f) rights in respect of property and succession to property are, subject to express provision otherwise, determined according to the relationship created by the adoption but property rights acquired before the adoption are not affected;
- (g) the child acquires the domicile of the adoptive parent, but the race, nationality and citizenship of the child are not affected.

THE ALTERNATIVES TO ADOPTION

The alternatives to relinquishing a child for adoption are:

- (a) the temporary placement of the child with relatives or friends until the parent or parents are able to care for the child. The parent or parents would remain the guardian(s) of the child and be responsible for the long term welfare of the child and make the decisions regarding the child's health, education and religious

upbringing. The relatives or friends would have responsibility for the daily care and control of the child including (as agreed) making decisions regarding accommodation, clothing, feeding, behaviour and urgent or routine health needs;

- (b) the parent or parents may enter into an agreement with the Minister responsible for the administration of the *Community Welfare Act* under section 62 of that Act for the child to be cared for by foster parents for periods of up to 2 months, but not for more than a total of 6 months. The parent or parents would remain the guardian(s) of the child and the foster parents would be responsible for the daily care and control of the child;
- (c) the making of a formal guardianship or custody order under the *Family Law Act* in favour of relatives or friends where the parent or parents consider(s) that he, she or they will not be able to care for the child for a long period of time. The parent or parents may apply to have the orders varied when they wish to assume responsibility for the child.

FORM 3

regulation 6

NORTHERN TERRITORY OF AUSTRALIA

section 31

Adoption of Children Act

CONSENT OF ADOPTION

I, (1)
of (2)
as (3)
hereby consent to the adoption of (4)
who was born on (5) at (6)
*by any person or persons who the Minister, or the Minister's delegate, is
satisfied is suitable to adopt (4)
*by (7)

I have received counselling by (8), an approved person
under the Act, and have been given and have read or had read to the me
information explaining the effect of an order for adoption and the
alternatives to the adoption of (4).

I am aware that should I wish to revoke this my consent to the adoption of
(4) I must do so by written notice served on the Minister before the
expiration of one month after the date of this consent.

.....
Signature Date

Before or acknowledged before:
.....
.....

I, (8)
of (9)
an approved person under the Act, hereby declare that I have, as required
by section 30 of the Act, counselled (1)
before he or she has consented to the adoption of (4)
and on (10) gave him or her information in the prescribed form.

.....
Signature Date

NOTES

- (1) Name of person consenting to the adoption.
- (2) Address of person consenting to the adoption.
- (3) Specify capacity in which consenting, eg: parent or guardian.
- (4) Name of child to be adopted as appears in Birth Register.
- (5) Date of birth of child to be adopted.
- (6) Place of birth of child.
- (7) Full name(s) and address(es) of person(s) to adopt the child where one is a relative of the child or the spouse of a relative of the child, or where the Minister as the child's guardian will consent to the adoption.
- (8) Name of approved person who counselled person consenting to the adoption.
- (9) Address of the approved person.
- (10) Date information given to persons consenting
- * Complete if applicable otherwise delete.

FORM 4

regulation 7

NORTHERN TERRITORY OF AUSTRALIA

section

Adoption of Children Act

STATEMENT BY RELINQUISHING PARENT IN RESPECT OF
ADOPTION

- * I have received advice and counselling concerning the adoption of my child and am aware that I may participate in the selection of the adoptive parents of my child and be advised when the application for an order for adoption of my child is to be made and that I may be a party to the adoption proceedings.
- * I do/do not wish to participate in the selection of the adoptive parents of my child.
- * I do/do not wish to be advised of the making of the application for an order for adoption and the date and time of the hearing of the application.
- * I do/do not wish that my child be placed with, and brought up by, a family that has the same ethnic and cultural origins as I do.
- * I do wish that my child be brought up in the _____ religion.
- * I do/do not wish to have access to my child and/or receive information about him or her after he or she has been adopted. I am aware that such arrangements can only be made and continue in force while complied with by myself and the adoptive parent(s). I am also aware of the counselling and mediation facility provided under the Act should a dispute arise between myself and the adoptive parent(s) in respect of the arrangements.
- * I am aware that I may amend vary or revoke this statement before the allocation of my child to persons wishing to adopt him or her concerning matters relating to the selection of the adoptive parents and otherwise at anytime.

.....
Signature _____ Date _____

* Delete where appropriate.

FORM 5

regulations 8 and 12

NORTHERN TERRITORY OF AUSTRALIA

section 54(1) and 56

Adoption of Children Act

MEMORANDUM OF ORDER

No. of 19
In the Local Court
of the Northern Territory
of Australia
at

Order
Date of order

Particulars of child

Full name of child before adoption
Sex
Date of birth
Place of birth
Birth father's full name at date of adoption
Birth father's previous surname(s) (if any)
Birth mother's full name at date of adoption
Birth mother's previous surname(s) (if any)
Full name of child after adoption

Particulars of Adopting Parents

Adoptive father –
full name
occupation
address
place of birth
age at date of birth of adopted child

Adoptive mother –
full name
occupation
address
place of birth
age at date of birth of adopted child

Place and date of marriage/traditional Aboriginal marriage

Issue of marriage (state whether male or female, living or deceased)

Dated 19 .

REGISTRAR

FORM 6

regulation 9

NORTHERN TERRITORY OF AUSTRALIA

section 55(2)(a)

Adoption of Children Act

CERTIFICATE OF MINISTER IN RESPECT OF ADOPTION OF
NON-CITIZEN CHILD

I, (1) , the Minister responsible for the administration of the
Adoption of Children Act, hereby certify that the adoption of (2)
(born on (3))
by (4)
of (5)
on (6)

is an adoption to which section 51 of the Act applies and therefore has the
same effect (and no other effect) for so long as it remains in force as an
adoption made in a State or another Territory of the Commonwealth (which
pursuant to section 49 of the Act has the same effect as an order for
adoption made under the Act).

Dated 19 .

MINISTER

NOTES

- (1) Name of Minister.
- (2) Full name of child the subject of the certificate.
- (3) Date of birth of child.
- (4) Full name of adoptive parent(s) of child.
- (5) Address of adoptive parent(s).
- (6) Date of adoption.

ADDRESS AT THAT TIME

IF THE CHILD WAS NAMED AT BIRTH, WHAT WAS THAT NAME

DATE OF BIRTH OF CHILD

PLACE OF BIRTH OF CHILD

SECTION D (to be completed by all persons intending to lodge a notice of prohibition)

TO THE MINISTER

I wish to lodge a notice of prohibition under section 65(2) of the *Adoption of Children Act* to disallow the provision of information as follows:

I disallow the provision of information in respect of the adoption details of which I have specified above.

I disallow the provision of information that would identify me, being my name and last-known address and any other information kept under the Act which might enable a person to ascertain my identity and/or whereabouts.

I wish this notice of prohibition to remain in force from (1)
to (2)

I understand the following in relation to the notice of prohibition:

- The notice of prohibition will remain in force for the period I have specified herein;
- I may renew the notice of prohibition for further periods each of which must not be more than 3 years;
- If, on the expiration of the notice of prohibition, the Minister has not received notification of the renewal of the notice of prohibition, information that would identify me may be released;
- Persons who lodge a notice of prohibition will be advised in writing of the receipt of the notice of prohibition and of confirmation of the date of expiration of the notice. No further advice for the renewal of the notice will be provided;
- I may, at any time, revoke the notice of prohibition by notice in writing to the Minister in accordance with regulation 16(2) of the *Adoption of Children Regulations*.

NAME

SIGNATURE

DATE

NOTES

(1) Specify date the notice of prohibition is to commence. (Note, that date cannot be earlier than the date you sign the notice).

(2) Specify date the notice of prohibition is to expire (which, in accordance with section 65(4) of the Act, must not be later than 3 years after the commencement date of the notice).

ENDNOTES**1****KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Adoption of Children Regulations (SL No. 12, 1994)***

Notified 3 May 1994
Commenced 3 May 1994

Births, Deaths and Marriages Registration (Consequential Amendments) Act 1996 (Act No. 27, 1996)

Assent date 19 April 1996
Commenced 1 January 1997 (s 2, s 2 *Births, Deaths and Marriages Registration Act 1996* (Act No. 26, 1996) and Gaz G49, 4 December 1996, p 5)

3**LIST OF AMENDMENTS**

r 8 amd No. 27, 1996, s. 6
r 10 amd No. 27, 1996, s. 7