

NORTHERN TERRITORY OF AUSTRALIA
ADOPTION OF CHILDREN AMENDMENT ACT 2006

Act No. 6 of 2006

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 6 of 2006

AN ACT

to amend legislation relating to the adoption of children

[Assented to 26 April 2006]

[Second reading 23 February 2006]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Adoption of Children Amendment Act 2006*.

PART 2 – AMENDMENT OF ADOPTION OF CHILDREN ACT

2. Principal Act amended

This Part amends the *Adoption of Children Act*.

3. Amendment of section 5 (Jurisdiction of Local Court)

Section 5, at the end –

insert

Note for section 5 –

In relation to the adoption of children, the Court also has jurisdiction under the Family Law (Hague Convention on Intercountry Adoption) Regulations 1998 (Cth) for a matter to which a provision of Part 4 of those regulations applies.

4. Amendment of section 54 (Registration of orders)

(1) Section 54(1)(b), after "whose birth is" –

insert

, or is required by the Regulations to be,

(2) Section 54(3)(a) –

omit

as he or she sees fit

substitute

as prescribed

(3) Section 54(3)(b), after "whose birth is" –

insert

, or is required by the Regulations to be,

5. Amendment of section 55 (Registration of overseas birth and adoption order)

(1) Section 55(3)(a) –

omit

as he or she sees fit

substitute

as prescribed

(2) Section 55(3)(b), after "whose birth is" –

insert

, or is required by the Regulations to be,

6. Repeal and substitution of Part 9 heading

Part 9, heading –

repeal, substitute

**PART 9 – TRANSITIONAL MATTERS FOR ADOPTION OF CHILDREN
ACT 1994**

7. New Part 10

After section 90 –

insert

**PART 10 – TRANSITIONAL MATTERS FOR ADOPTION OF
CHILDREN AMENDMENT ACT 2006**

91. Application of amendments

(1) The amendments made to this Act by sections 4 and 5 of the *Adoption of Children Amendment Act 2006* have effect in relation to an adoption made before, on or after the commencement of that Act.

(2) Subsection (1) has effect subject to the Regulations.

**PART 3 – AMENDMENT OF ADOPTION OF CHILDREN
REGULATIONS**

8. Principal Regulations amended

This Part amends the *Adoption of Children Regulations*.

9. Repeal and substitution of regulations 8 and 9

Regulations 8 and 9 –

repeal, substitute

**8. Prescribed forms for order for adoption, order discharging order for
adoption and certificate issued by Minister**

(1) A memorandum referred to in section 54(1) of the Act for an order for adoption must be in accordance with Form 5.

(2) A memorandum referred to in section 54(1) of the Act for an order discharging an order for adoption must be in accordance with Form 5.

(3) A certificate referred to in section 55(2) of the Act must be in accordance with Form 6.

9. Register of Adoptions

(1) This regulation applies if any of the following (an "adoption document") for a child is received by the Registrar:

- (a) a memorandum or certificate referred to in regulation 8(1), (2) or (3);
- (b) a copy of an order made under section 52 of the Act;
- (c) a document forwarded to the Registrar under section 54(2) of the Act;
- (d) a memorandum or copy of an order referred to in section 57 of the Act.

(2) The Registrar must register the adoption document by entering particulars about the child and parents of the child in the Register of Adoptions –

- (a) on the basis of the particulars (including incomplete particulars) in the adoption document and any order to which the document relates; and
- (b) as the Registrar considers appropriate in the circumstances.

(3) The following must not be open for public inspection:

- (a) the Register of Adoptions;
- (b) any of the following received by the Registrar:
 - (i) an adoption document;
 - (ii) a copy of an order to which an adoption document relates.

(4) Subject to regulation 10, the Registrar must not issue a copy of, or an extract from, an entry in the Register of Adoptions or a document referred to in subregulation (3)(b), unless –

- (a) a court orders the Registrar to do so; or
- (b) both of the following apply:
 - (i) the Minister has, under Part 6 of the Act, provided information associated with the entry or document;
 - (ii) the copy or extract contains only information that may be provided under that Part; or
- (c) both of the following apply:

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- (i) the Registrar is satisfied that the copy or extract is required for court proceedings;
- (ii) the issuing of the copy or extract is approved by the Minister.

(5) The Registrar must ensure the information in the Register of Adoptions may be searched by reference to a name or other identifying information.

(6) In this regulation –

"Registrar" means the Registrar of Births, Deaths and Marriages.

10. Amendment of regulation 10 (Certificate about adopted child)

(1) Regulation 10(1) –

omit

who was born in an overseas country

(2) Regulation 10(1)(a), after "date" –

insert

and place

(3) Regulation 10(3)(b) –

omit

only

(4) Regulation 10(3)(b), after "date" –

insert

and place

11. Repeal and substitution of regulation 11

Regulation 11 –

repeal, substitute

11. Registration of birth of adopted child

- (1) This regulation applies only to a child –
 - (a) who was born in the Territory or an overseas country and in relation to whom –
 - (i) an order for the adoption of the child under Part 3 of the Act has been made; or
 - (ii) an order for the discharge of an order referred in subparagraph (i) has been made; or
 - (b) who was born in an overseas country and in relation to whom all of the following conditions are satisfied:
 - (i) under Part 4 of the Act, the adoption of the child is taken to have the same effect as an order for adoption made under the Act;
 - (ii) the birth of the child is not registered under a corresponding law within the meaning of the *Births, Deaths and Marriages Registration Act*;
 - (iii) at least one of the adoptive parents of the child is a resident of the Territory and has been residing in the Territory for a continuous period of at least 6 months;
 - (iv) the child is a resident of the Territory.
- (2) If the Registrar registers the adoption of a child and the birth of the child is not registered in the Register of Births, the Registrar must –
 - (a) register the birth of the child in the Register of Births; and
 - (b) include in the entry under paragraph (a) a notation stating the birth of the child is registered under this subregulation.
- (3) If the Registrar registers the adoption of a child and the birth of the child is registered in the Register of Births, the Registrar must –
 - (a) re-register the birth of the child in the Register of Births; and
 - (b) include in the entry under paragraph (a) a notation stating the entry is made under this subregulation; and

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- (c) include in the previous entry made for the child in the Register a notation stating –
 - (i) the previous entry is no longer current; and
 - (ii) the birth of the child is re-registered under this subregulation.

(4) If the Registrar registers the discharge of an order for the adoption of a child and the birth of the child was registered in the Register of Births before the order for the adoption was made, the Registrar must –

- (a) subject to any contrary direction in the order for the discharge –
 - revive the entry for the child in the Register that was current immediately before the order for the adoption was made; and
- (b) include in the entry referred to in paragraph (a) a notation stating –
 - (i) the order for the adoption has been discharged; and
 - (ii) other entries in the Register for the child are no longer current; and
- (c) include in each of the other entries referred to in subparagraph (b)(ii) a notation stating –
 - (i) the order for the adoption has been discharged; and
 - (ii) the entry is no longer current (to the extent to which such a notation has not been included).

(5) If the Registrar registers the discharge of an order for the adoption of a child and the birth of the child was not registered in the Register of Births before the order for the adoption was made, the Registrar must include in the current entry in the Register for the child a notation stating –

- (a) the order for the adoption has been discharged; and
- (b) the entry is no longer current.

(6) The Registrar must register or re-register the birth of a child by entering particulars about the child and parents of the child in the Register of Births –

- (a) on the basis of the particulars (including incomplete particulars) in the adoption document referred to regulation 9(1) and any order to which the adoption document relates; and
- (b) as the Registrar considers appropriate in the circumstances.

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(7) Subject to regulation 3(3), a notation referred to in subregulation (2), (3), (4) or (5) must be signed and dated by the Registrar.

(8) The notation must not be included in a copy of, or extract from, an entry in the Register of Births issued by the Registrar.

(9) A registration or re-registration under this regulation has effect as if it were a registration made for section 13 of the *Births, Deaths and Marriages Registration Act*.

Note for subregulation (9) –

Accordingly, a certificate may be issued by the Registrar in relation to an entry about the child under the Births, Deaths and Marriages Registration Act.

(10) For this regulation –

(a) a reference to the registration of the adoption of a child is a reference to the registration under regulation 9 of a document referred to in regulation 9(1) (other than a document about the discharge of an order for adoption) for the child; and

(b) a reference to the registration of the discharge of an order for the adoption of a child is a reference to the registration under regulation 9 of a document referred to in regulation 9(1) about the discharge of an order for the adoption of the child.

(11) In this regulation –

"Registrar" means the Registrar of Births, Deaths and Marriages.

12. Amendment of regulation 15 (Offences relating to registration or re-registration)

Regulation 15(b), after "obtain the" –

insert

registration or

13. New regulation 17

After regulation 16 –

insert

17. Transitional matters for *Adoption of Children Amendment Act 2006*

(1) These Regulations as amended by the *Adoption of Children Amendment Act 2006* apply to an adoption made before, on or after the commencement of that Act.

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(2) However, they apply to a child for whom a registration was made in the Register of Adoptions before the commencement of that Act with the following modifications:

- (a) regulation 11(1)(b)(iii) and (iv) are taken to be omitted;
- (b) if the last entry for the registration was made on or after 3 May 1994 – the Registrar is not required to do anything under regulation 11 for the child unless an application for it is made to the Registrar;
- (c) if the last entry for the registration was made before 3 May 1994 – the Registrar is not required to do anything under regulation 11 for the child unless –
 - (i) an application for it is made to the Registrar; and
 - (ii) the Registrar considers it is appropriate in the circumstances.

(3) In this regulation –

"Registrar" means the Registrar of Births, Deaths and Marriages.

14. Amendment of Schedule

Forms 5 and 6 –

omit, substitute

FORM 5

Regulations 8 and 12

NORTHERN TERRITORY OF AUSTRALIA

Sections 54(1)
and 56

Adoption of Children Act

MEMORANDUM OF ORDER

No.

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 of child

Date and time of birth

Place of birth

Whether the child's birth is a multiple birth and if so, the numerical order
in which the child was born

Weight of child at birth

Birth father's full name at date of adoption

Birth father's previous surname(s)

Birth mother's full name at date of adoption

Birth mother's previous surname(s)

Full name of child after adoption

Particulars of adoptive parents

Adoptive father –

full name

occupation

usual place of residence

date of birth

place of birth

age at date of birth of adopted child

Adoptive mother –

full name

maiden family name

occupation

usual place of residence

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date of birth

place of birth

age at date of birth of adopted child

if the adoptive mother has had other children – the full name, sex and date of birth of each of them (including adopted children and deceased children) and whether the child arose from a current relationship

Other particulars

Whether or not the child or a birth parent or adoptive parent of the child is of Australian Aboriginal or Torres Strait Islander origin

Whether the adoptive parents of the child are residents of the Territory and have been residing in the Territory for a continuous period of at least 6 months

Whether or not the child is a resident of the Territory

Whether the birth of the child has been registered in the Register of Births of a State or another Territory

Place and date of marriage or traditional Aboriginal marriage of the adoptive parents of the child

Full name, sex and date of birth of each of the other children (including adopted children and deceased children) arising from the relationship between the adoptive parents of the child

Full name, sex and date of birth of each of the other adopted children (including deceased children) of the adoptive parent of the child if the child only has one adoptive parent

Full name, occupation, usual place of residence and relationship (if any) to the child, of the person furnishing the particulars in this form

Full name of the doctor, midwife or health worker responsible for the professional care of the birth mother at the birth, and other persons present at the birth

Dated

REGISTRAR

FORM 6

Regulation 8

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Section 55(2)

Adoption of Children Act

CERTIFICATE OF MINISTER

I, (1), the Minister responsible for the administration of the *Adoption of Children Act*, pursuant to section 55(2) of the Act, certify that the adoption of (2) (in relation to whom particulars are included in the Schedule) by (4) of (5) on (6) in (7) is an adoption to which section 51 of the Act applies.

Dated

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) of child
- (6) Date of adoption
- (7) Country of adoption

SCHEDULE

Particulars of child

Full name of child before adoption
Sex of child
Date and time of birth
Place of birth
Whether the child's birth is a multiple birth and if so, the numerical order
in which the child was born
Weight of child at birth
Birth father's full name at date of adoption
Birth father's previous surname(s)
Birth mother's full name at date of adoption
Birth mother's previous surname(s)
Full name of child after adoption

Particulars of adoptive parents

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

Adoptive mother –
full name
maiden family name
occupation
usual place of residence
date of birth
place of birth
age at date of birth of adopted child
if the adoptive mother has had other children – the full name, sex
and date of birth of each of them (including adopted
children and deceased children) and whether the child arose
from a current relationship

Other particulars

Whether or not the child or a birth parent or adoptive parent of the
child is of Australian Aboriginal or Torres Strait Islander origin

Whether the adoptive parents of the child are residents of the
Territory and have been residing in the Territory for a continuous
period of at least 6 months

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Whether or not the child is a resident of the Territory

Whether the birth of the child has been registered in the Register of Births of a State or another Territory

Place and date of marriage or traditional Aboriginal marriage of the adoptive parents of the child

Full name, sex and date of birth of each of the other children (including adopted children and deceased children) arising from the relationship between the adoptive parents of the child

Full name, sex and date of birth of each of the other adopted children (including deceased children) of the adoptive parent of the child if the child only has one adoptive parent

Full name, occupation, usual place of residence and relationship (if any) to the child, of the person furnishing the particulars in this form

Full name of the doctor, midwife or health worker responsible for the professional care of the birth mother at the birth, and other persons present at the birth
