

NORTHERN TERRITORY OF AUSTRALIA

ADOPTION OF CHILDREN LEGISLATION AMENDMENT (EQUALITY)
ACT 2018

Act No. 4 of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 4 of 2018

An Act to amend the *Adoption of Children Act* and *Adoption of Children Regulations*

[Assented to 19 April 2018]
[Second reading 23 November 2017]

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 Legislation Amendment (Equality) Act 2018*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Adoption of Children Act

3 Act amended

This Part amends the *Adoption of Children Act*.

4 Section 3 amended

- (1) Section 3(1), definition *spouse*
omit

- (2) Section 3(1)
insert (in alphabetical order)
Register of Adoptions, see section 54(1)(a).
spouse, of a person, means any of the following:
- (a) a person to whom the person is married;
 - (b) if the person is an Aboriginal – an Aboriginal with whom the person is in a traditional Aboriginal marriage;
 - (c) a person who is in a de facto relationship with the person.
- (3) Section 3(1), definition **citizen-child**
omit
of the Commonwealth
- (4) Section 3(1), at the end
insert
Note for subsection (1)
The Interpretation Act contains definitions and other provisions that may be relevant to this Act.
- (5) Section 3(2)
omit
All words from "Where" to "that office"
insert
If the holder of an office that is established by another Act (**office holder**) is referred to in this Act and the office holder
- (6) Section 3(2)
omit
his or her
insert
the office holder's

- (7) Section 3(2)(a)
omit
deemed
insert
taken
- (8) Section 3(2)(b)
omit
shall
insert
is to
- (9) Section 3(4)(a) and (b)
omit, insert
- (a) 2 persons who are married; or
 - (b) 2 Aboriginal persons who are living together in a traditional Aboriginal marriage; or
 - (c) 2 persons who are in a de facto relationship.

5 Section 13 amended

- (1) Section 13(1)
omit, insert
- (1) Except as provided by this section, the Court may make an order for the adoption of a child in favour of 2 persons, who, on the date on which the order is made:
- (a) are married to each other and have been so married for not less than 2 years; or
 - (b) have entered into a relationship that is recognised as a traditional Aboriginal marriage and has been so recognised for not less than 2 years; or
 - (c) are in a de facto relationship with each other and have been so for not less than 2 years; or

(d) have been living with each other in any combination of the relationships mentioned in paragraphs (a) to (c) and have been so living for not less than 2 years.

(2) Section 13(2)

omit

shall

insert

must

(3) Section 13(2)

omit

a man and woman

insert

2 persons

6 Section 18 amended

(1) Section 18(1)

omit, insert

(1) The Minister must, in accordance with this section, establish and maintain a record in any form (including an electronic form) or combination of forms, as the Minister thinks fit, of the names of the couples who have made an application under section 17 in respect of a citizen-child and who are, in the Minister's opinion, suitable to adopt a citizen-child, and that record is to be known as the adoption list.

(2) Section 18(2)

omit

shall

insert

must

(3) Section 18(2)(a)

omit

him or her

insert

the Minister

(4) Section 18(2)(b)

omit

such particulars, as he or she

insert

the particulars the Minister

(5) Section 18(3)

omit

shall

insert

may

(6) Section 18(4)

omit

his or her

insert

a

(7) Section 18(4)

omit

shall

insert

must

(8) Section 18(4)

omit

he or she shall

insert

the Minister must

7 Section 56 replaced

Section 56

repeal, insert

56 Sending of memoranda or order to States and other Territories

- (1) This section applies if the Court makes an order for the adoption of a child, or an order discharging an adoption order, and a registrar has reason to believe that the birth of the child is registered in a State or another Territory.
- (2) The registrar must, as soon as practicable, send to the appropriate officer of that State or other Territory who has functions in relation to the registration of births:
 - (a) a memorandum of the adoption order, in the prescribed form;
or
 - (b) a copy of the discharging order.
- (3) A memorandum or copy mentioned in subsection (2) must be certified in writing by the registrar to be a true memorandum or copy.

8 Part 11 inserted

After section 91

insert

Part 11 Transitional matters for Adoption of Children Legislation Amendment (Equality) Act 2018**92 Definitions**

In this Part:

amending Act means the *Adoption of Children Legislation Amendment (Equality) Act 2018*.

commencement means the commencement of section 5(1) of the amending Act.

93 Applications under section 17

- (1) This section applies if, before the commencement:
 - (a) a person or couple had made an application to the Minister under section 17(1); and
 - (b) the Minister had not made a decision on the application.
- (2) The Minister must assess and decide the application in accordance with this Act as amended by the amending Act.

94 Offence provisions – before and after commencement

- (1) The offence provisions, as amended by the amending Act, apply only in relation to offences committed after the commencement.
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (4) In this section:

offence provisions means the provisions of this Act that create or relate to offences (including in relation to criminal responsibility, defences and penalties).

9 Act further amended

Schedule 1 has effect.

Part 3 Amendment of Adoption of Children Regulations

10 Regulations amended

This Part amends the *Adoption of Children Regulations*.

11 Amendment of Adoption of Children Regulations

Schedule 2 has effect.

Part 4 Repeal of Act

12 Repeal of Act

This Act is repealed on the day after it commences.

Schedule 1 Act further amended

section 9

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 4(1)	, by instrument in writing, his or her	the Minister's
section 9	, under and in accordance with this Act,	
section 9(a) and (b), at the end		and
section 9(b)	such a	the
section 9(c)	him or her	the child
section 9(d)	his or her he or she	the Minister's the Minister
section 12(1)(b)	his, her or	
section 12(2)	shall within the meaning of the <i>De Facto Relationship Act</i>	must
section 12(3)	notwithstanding that	even if
section 14(1)	shall	must
section 14(2)	referred to all words from "is married" to "marriage" his or her	mentioned has a spouse the person's
section 15, heading	, &c.	or relative
section 15(1)(a) and (b), at the end		or

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 15(1)(d)	his or her	the relative's
section 15(2)	referred to all words from "is married" to "marriage" his or her	mentioned has a spouse the person's
section 15(3)	shall referred to	may mentioned
section 15(3)(a)	of the Commonwealth	(Cth)
section 15(3)(a), at the end		and
section 15(4)	Where deemed notwithstanding	If taken despite
section 15(4)(a) to (c), at the end		and
section 19	Where of the Commonwealth by him or her	If
section 20	shall his or her	must the Minister's
section 21(1)	Where shall his or her (<i>all references</i>)	If must the Minister's
section 21(2)	shall cause records to be kept	must keep records
section 22	his, her or their his or her him, her or them	the person's or couple's the the person or couple

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 25	shall	must
section 25(a)	his or her	the Minister's
section 27(1)	his or her before:	the child's before the earlier of the following:
section 27(1)(a)	or	
section 27(1)(b)	35,	35.
section 27(1)	whichever is the earlier.	
section 27(3)	Where	If
section 28(1)	his or her (<i>first reference</i>) shall his or her (<i>second reference</i>)	the child's must
section 28(2)	pursuant to he or she his or her	under the birth parent the birth parent's
section 28(3)	referred to shall	mentioned must
section 28(3)(a) and (b)	his or her	the birth parent's
section 28(3)(b)	<i>Act</i> , all words from "as the" to "required."	<i>Act</i> .
after section 28(3)		(3A) If the birth parent mentioned in subsection (2) does not comply with subsection (3), the birth parent's consent to the

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
		adoption is not required.
section 28(4)	Where referred to his or her <i>(all references)</i>	If mentioned the birth parent's
section 28(5)	referred to where shall	mentioned if must
section 30(1)	shall he or she	must the person
section 30(2)	referred to shall	mentioned must
section 32	Where:	If:
section 32(a)	of the Commonwealth Minister;	Minister; and
section 32(b)	his or her by writing under his hand	the officer's in writing
section 32(c)	Territory,	Territory;
section 32	to be deemed	taken
section 35	where	if
section 35(a) and (c), at the end		or
section 35(b)	the question whether he or she should give his or her consent;	whether to give consent; or

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 37	Where of the Commonwealth <i>(first reference)</i> of the Commonwealth <i>(second reference)</i>	If (Cth)
section 37, after "the non-citizen child"		, for so long as the Territory is the normal place of residence of the child
section 37(a)	shall	is to
section 37(b)	shall apply he or she Territory of the Commonwealth,	applies the child Territory.
section 37	for so long as the Territory is the normal place of residence of the child.	
section 39(1)	Where referred to shall give to notice in writing of his or her	If mentioned must give written notice of the
section 39(2)	referred to shall notice in writing	mentioned must written notice
section 39(2)(a)	he or she <i>(all references)</i> his or her	the person
section 39(2)(b)	Minister,	Minister;

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 39(2)	his or her he or she	the person's the person
section 39(3)	shall referred to	must mentioned
section 39(5)	Notwithstanding this section, where referred to	If mentioned
section 40(1)	Where	If
section 40(1)(b)	his or her	the person's
section 40(2)	Notwithstanding subsection (1), where	If
section 53(1)	where:	if:
section 53(1)(a) and (b), at the end		and
section 53(1)(d)	Territory,	Territory;
section 53(1)	of the arrival of the child	the child arrives
section 53(2)	Where of the Commonwealth	If
section 53(3)	his or her shall	the Minister's does
Part 5, heading	, &c.	
section 54(1)	shall (<i>all references</i>) cause be sent to	must send
section 54(1)(a)	him or her Register of Adoptions	the Registrar Register of Adoptions

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 54(1)(b)	him or her, make such he or she	the Registrar, make any the Registrar
section 54(2)	Where his or her having the him or her	If the Registrar's who has the Registrar
section 54(3)	Upon all words from "to him" to "discretion"	On to the Registrar of Births, Deaths and Marriages under subsection (2), the Registrar may, in the Registrar's discretion
section 54(3)(b)	him or her, make such he or she	the Registrar, make any the Registrar
section 54(4)	all words from "such" to "herself"	any enquiries the Registrar thinks appropriate to satisfy the Registrar
section 54(5)	having in his or her custody or control shall <i>(first reference)</i> shall assist him or her in his or her pursuant to	who has custody or control of must must assist the Registrar with all under
section 55(1)	all words from "Where" to "forwarded"	If an order is made under section 52, a registrar must forward a copy of the order

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 55(2)	Where county notice in the <i>Gazette</i> pursuant to of the Commonwealth	If country <i>Gazette</i> notice under
section 55(2)(b)	shall causing the certificate to be prepared, cause to be forwarded	must preparing the certificate, forward
section 55(3)	Upon shall	On must
section 55(3)(a)	kept by him or her	
section 55(3)(b)	him or her, make such he or she	the Registrar, make any the Registrar
section 57	Where of the Commonwealth such an he or she shall	If an adoption the Registrar must
section 57(a)	kept by him or her	
section 57(b)	such him or her he or she thinks fit.	any the Registrar the Registrar thinks appropriate.
section 59	shall, in such he or she or cause to be kept and maintained,	must, in any the Minister
section 62(1)	Where shall	If must

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 62(1)(a) and (b)	he or she specifies	specified
section 62(1)(b)	where	if
section 62(1)(c)	pursuant to	under
section 62(2)	shall	must
section 62(2)(a)	in pursuance of	under
section 62(3)	shall where he or she	must if the Minister
section 62(4)	where he or she thinks fit:	if the Minister thinks appropriate:
section 62(4)(a)	such <i>(all references)</i>	
section 63(1)	shall he or she	must the person
section 64(1)	where referred to shall	if mentioned must
section 64(2)	shall not his or her relinquishing parents except where his or her	is not entitled to the person's relinquishing parents except if the person's
section 65(1)	Where	If
section 65(1)(a)	his or her <i>(first and second references)</i> he or she his or her application for information;	the adopted person's the adopted person the application for information; and

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 65(1)(b)	all words from "shall" to "identifies" his, her or	must not identify
section 65(1)(c)	he or she where all words from "shall" to "identifies" his, her or their whereabouts,	the relinquishing parent if must not identify their whereabouts;
section 65(1)	shall	must
section 65(2)	referred to will disallow him or her	mentioned disallows the relinquishing parent or adopted person
section 65(3)	Where shall	If must
section 65(4)	shall remain shall not	remains must not
section 66(1)	Where shall	If must
section 66(2)	shall he or she	must the Minister
section 68, heading	, &c.,	
section 68(1)	shall	must
section 68(1), at the end		Maximum penalty: 40 penalty units.
section 68(2)	shall where he or she	must if the person

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 72(1)	shall his or her <i>(all references)</i> he or she <i>(all references)</i> him or her	must the person's the person the person
section 72(2)(a) and (b)	his or her <i>(all references)</i> court;	the person's court; or
section 72(2)(c)	such	the
section 72(2)(d)	such purposes or such persons as	a purpose or to a person that
section 73, heading	, &c. ,	
section 73(1)	shall his or her <i>(all references)</i>	must the person's
section 73(2)	where	if
section 74(1)(b)	child,	child;
section 74(2)(a) and (b), at the end		or
section 74(2)(d)	his or her	the relative's
section 76, heading	Personation	Impersonation
section 76	shall not personate himself or herself to be of the Commonwealth	must not impersonate that the person is
section 77	shall his or her a person	must the person's another person (the signatory)

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 77(a)	he or she person signing the consent;	the person signatory; and
section 77(b)	whole paragraph	(b) the person takes the prescribed steps to satisfy the person that the signatory understands the effect of the consent; and
section 77(c)	he or she subscribed	the person signed the person's
section 83	shall of the Commonwealth him or her, he or she	is to the person, the person
section 85, heading	, &c.,	and other
section 85	his or her such as the Minister determines	the Minister's the determined by the Minister

Schedule 2 Amendment of Adoption of Children Regulations

section 11

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 3(3)	Where his <i>(all references)</i> shall be	If the Registrar's is
regulation 5	all words from "an approved" to "counselling shall"	must
regulation 7(1), all words from "to" to "of"		who intends to relinquish a child for adoption may, in accordance with Form 4, record the parent's wishes in respect of the following
regulation 7(1)(b)	child; or	child;
regulation 7(1)(c)	he or she proceedings,	the parent proceedings.
regulation 7(1)	in accordance with Form 4.	
regulation 7(2)	his or her	the parent's
regulation 7(2)(a) and (b)	referred to	mentioned
regulation 10(1)	to him or her of:	of either of the following:
regulation 10(1)(a)	or	
regulation 10(1)(b)	person,	person.

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 10(1)	or both.	
regulation 10(2) and (3)	shall	must
regulation 10(3)(b)	shall state	states
regulation 10(4)	Where he or she	If the Registrar
regulation 13, heading	, &c.,	
regulation 13(1)	Where kept by him or her in pursuance of he or she	If under the Registrar
regulation 13(2)	Where he or she shall sign his or her	If the Registrar must sign the Registrar's
regulation 14(1)	Where kept by him or her he or she his	If the Registrar the Registrar's
regulation 14(2)	shall kept by him or her	may
Schedule, Form 1	all words from "Adoption and" to "0811" for Health and Community Services NT	Adoption Unit Territory Families PO Box 37037 WINNELLIE NT 0820
Schedule, Form 1	19 (<i>all references</i>)	

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Schedule, Form 1, before "Surname"		Parent 1
Schedule, Form 1, before "Date and Place of Birth"		Parent 2 Surname..... Given Names If surname has changed since birth, previous surnames (s)
Schedule, Form 1, before "Date and Place of Marriage/traditional Aboriginal marriage"		If married or in a traditional Aboriginal marriage:
Schedule 1, Form 1, before "Residential"		If in a de facto relationship: Date of commencement of relationship /...../....
Schedule, Form 1	above marriage	above marriage/traditional Aboriginal marriage/de facto relationship
	marriages	marriages/de facto relationships
Schedule, Form 1, before "Children of previous"		3. Separation date (de facto relationships only) /...../..../...../....
Schedule, Form 1, before ", living with you"		/de facto relationship

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Schedule, Form 1	in each category all words from "Male" to "sex"	
Schedule, Form 1, before "Age"		Preferred sex (if any):
Schedule, Form 2	he, she or they	the parent or parents
Schedule, Form 3	all words from "I have, as" to "form."	(1) consented to the adoption of (4) after I provided, as required by section 30 of the Act: (a) counselling; and (b) the information in the prescribed form on (10).....
Schedule, Form 4	him or her (<i>all references</i>)	my child
	he or she	my child
Schedule, Form 5	56	56(2)
	father's (<i>all references</i>)	parent 1's
	mother's (<i>all references</i>)	parent 2's
	father	parent 1
Schedule, Form 5, before "occupation" (<i>first reference</i>)		previous surname(s)
Schedule, Form 5, after "adopted child" (<i>first reference</i>)		if the adoptive parent has had other children – the full name, sex and date of birth of each of them (including adopted

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
		children and deceased children) and whether the child arose from a current relationship
Schedule, Form 5	<p>Adoptive mother maiden family name mother has</p> <p>Place and date of marriage or traditional Aboriginal marriage of the adoptive parents of the child</p> <p>the birth mother</p>	<p>Adoptive parent 2 previous surname(s) parent has</p> <p>If the adoptive parents of the child are married or in a traditional Aboriginal marriage, place and date of marriage or traditional Aboriginal marriage</p> <p>If the adoptive parents of the child are in a de facto relationship, the date of commencement of the relationship</p> <p>the birth parent who gave birth to the child</p>
Schedule, Form 6	<p>father's (all references)</p> <p>mother's (all references)</p> <p>father:</p>	<p>parent 1's</p> <p>parent 2's</p> <p>parent 1:</p>
Schedule, Form 6, before "occupation" (first reference)		previous surname(s)
Schedule, Form 6, after "adopted child" (first reference)		if the adoptive parent has had other children – the full name, sex and date of birth of each of them

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
		(including adopted children and deceased children) and whether the child arose from a current relationship
Schedule, Form 6	<p>Adoptive mother maiden family name mother has</p> <p>Place and date of marriage or traditional Aboriginal marriage of the adoptive parents of the child</p>	<p>Adoptive parent 2 previous surname(s) parent has</p> <p>If the adoptive parents of the child are married or in a traditional Aboriginal marriage, place and date of marriage or traditional Aboriginal marriage</p> <p>If the adoptive parents of the child are in a de facto relationship, the date of commencement of the relationship</p>
	the birth mother	the birth parent who gave birth to the child
Schedule, Form 7	<p>HIM OR HER</p> <p>m f</p> <p>MOTHER <i>(all references)</i></p> <p>FATHER <i>(all references)</i></p>	<p>THE PERSON OR PARENT</p> <p>PARENT 1</p> <p>PARENT 2</p>