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**Rules under the Adoption of Children Ordinance 1938  
and the Court of Petty Sessions Ordinance 1930-1937.**

I, ROBERT GORDON MENZIES, the Attorney-General of the Commonwealth, in pursuance of the powers conferred upon me by the *Adoption of Children Ordinance 1938* and the *Court of Petty Sessions Ordinance 1930-1937*, hereby make the following Rules under the said Ordinances.

Dated this tenth day of March, 1938.

ROBERT G. MENZIES  
Attorney-General.

Short title.

1. These Rules may be cited as the Adoption of Children Rules.

Definition.

2. In these Rules, unless the contrary intention appears—

“the Ordinance” means the *Adoption of Children Ordinance 1938*,

and any reference to a form shall be read as a reference to a form in the First Schedule to these Rules.

3. An application for an adoption order under the Ordinance shall be instituted by filing in the Court a notice in accordance with Form 1. Application, how made.

4. There shall be made at the foot of the notice and of every copy thereof a statement of the persons (if any) intended to be served there-with. If no person is intended to be served, a statement to that effect shall be made at the foot of such notice and of every copy thereof. Statement of persons to be served.

5. Twelve days' notice of any application for an adoption order shall be given to any person who, under these Rules, is entitled to notice thereof. Notice of application.

6. The notice of any application shall be served upon the following persons, unless in any case the Court dispenses with such service:— Service of notice.

- (i) The parents or parent or testamentary or other legally-constituted guardians or guardian (if any) of the infant, the subject of the application;
- (ii) the person having the actual custody of the infant;
- (iii) every person liable to contribute to the support of the infant,

and such persons shall be the respondents to the application.

7. Applications shall be heard upon evidence on affidavit, but the Court may, upon the hearing of any application, or upon the previous application of any of the parties thereto made upon two clear days' notice to the other parties, direct that the application shall be heard upon oral evidence, or partly upon oral evidence and partly upon evidence on affidavit, and may make all orders necessary for the carrying out of such direction. Application to be heard on affidavit.

8. The evidence in support of any application for an adoption order shall include— Evidence in support of application.

(1) evidence of—

- (a) the date and place of birth and the sex of the infant and the name and address of the person in whose care and custody he is;
- (b) the names, occupation, addresses and religion of his parents; and
- (c) the names, ages, occupations, address and religion of the adopting parents; and

(2) Evidence of independent persons unrelated to the adopting parent showing—

- (a) the fitness of the adopting parent to have the custody of the infant;
- (b) his ability to bring up, maintain and educate the infant; and
- (c) the reasons why, in the opinion of the witness, the welfare and interest of the infant will be promoted by the adoption.

9. Any consent required to be given by the Ordinance or these Rules shall be signed in the presence of and shall be attested and verified on affidavit by a Justice of the Peace, Commissioner for Affidavits, Commissioner for Declarations, barrister, solicitor, duly registered medical practitioner, minister of religion authorized to celebrate marriages, or Clerk of the Court of Petty Sessions, to whom the consenting person is personally known, and the affidavit shall state that the consent was previously read over and explained to and in the belief of the deponent understood by the consenting person. A consent by a husband or a wife to the other's application shall be given by filing in the Court a consent in accordance with Form 2. Consents.

10. An adoption order shall be in accordance with Form 3 and upon the making of the order the Magistrate shall sign the order with such amendments (if any) as he shall think necessary and the order so signed shall constitute the order of the Court upon the application. Order for adoption.

11. An interim order shall be in accordance with Form 4. Interim order.

12. The Clerk of the Court of Petty Sessions shall keep a Register to be called the "Register of Adoption Orders" in which he shall enter in respect of each adoption order a Memorandum of Registration of Adoption Order in accordance with Form 5. Any person may obtain a copy of any such Memorandum on payment of the sum of One shilling. Registration.

**Forms.** 13. The Forms in the First Schedule to these Rules shall be adhered to, subject only to such variations as may be necessary to meet the circumstances of the case or the directions of the Court.

**Powers of Court.** 14. The Court shall have power to enlarge or abridge the time for doing any act or taking any step, to adjourn or review any proceeding and to give any direction as to the course of proceeding. Time may be enlarged, notwithstanding that it has already expired.

**Court of Petty Sessions Ordinance and Rules to apply.** 15. Subject to these Rules, the *Court of Petty Sessions Ordinance 1930-1937* or that Ordinance as amended from time to time and the rules in force for the time being thereunder shall, so far as the same are applicable, apply to proceedings under the Ordinance and these Rules as if any application were a complaint and the respondents were defendants and the notices served on them in pursuance of Rule 6 of these Rules were summonses.

**Applications may be made without notice.** 16. Any application under the Ordinance or these Rules may, except where otherwise provided, be made upon motion without notice unless the Court otherwise orders.

**Solicitors' costs.** 17. The scale of solicitors' costs in any proceedings in which a solicitor or counsel is employed shall be as specified in the Second Schedule to these Rules.

## THE FIRST SCHEDULE.

FORM 1.

Rule 3.

*Adoption of Children Ordinance 1938.*

### NOTICE OF APPLICATION FOR AN ADOPTION ORDER.

In the Court of Petty Sessions at Canberra in the Territory for the Seat of Government.

In the matter of [insert name of infant proposed to be adopted] and in the matter of the *Adoption of Children Ordinance 1938*.

TAKE NOTICE that an application for an adoption order will be made on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at 10 o'clock in the forenoon, before the said Court on behalf of the applicant referred to in the Schedule hereto, for an adoption order in respect of \_\_\_\_\_, the infant referred to in the said Schedule, in favour of the said applicant, and for such further or other order in the premises as to the Court may seem meet.

#### THE SCHEDULE.

Particulars of Infant.	Particulars of Applicant.
(a) Surname	Adopting father's—
(b) Christian name or names	(1) Surname
(c) Sex	(2) Christian name or names
(d) Date of Birth	(3) Occupation
(e) Place of birth	(4) Address
(f) Father's surname	Adopting mother's—
(g) Father's Christian name or names	(5) Surname
(h) Mother's maiden surname	(6) Christian name or names
(j) Mother's Christian name or names	(7) Occupation
	(8) Address

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
(Signature of applicant or his solicitor.)

NOTE.—It is intended to serve this notice upon \_\_\_\_\_,  
of \_\_\_\_\_ (or, it is not intended to serve this notice upon any person).

FORM 2.

Rule 9.

*Adoption of Children Ordinance 1938.*

### CONSENT BY HUSBAND OR WIFE TO THE OTHER'S APPLICATION.

In the Court of Petty Sessions at Canberra in the Territory for the Seat of Government.

In the matter of [insert name of consenting party] and in the matter of the *Adoption of Children Ordinance 1938*.

I [insert name of consenting party], of [insert address], the husband (or the wife) of the applicant mentioned in the Schedule hereto, hereby consent to an adoption order in respect of the infant mentioned in the said Schedule being made in favour of the said applicant.

THE SCHEDULE.

(Copy of Schedule from Form of Notice of Application for an Adoption Order.)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(Signature of consenting party).

Witness—

(Signature of Witness).

NOTE.—The above-mentioned signature of the consenting party must be attested and verified in accordance with Rule 9.

FORM 3.

Rule 10.

Adoption of Children Ordinance 1938.

ADOPTION ORDER.

In the Court of Petty Sessions at Canberra in the Territory for the Seat of Government.

In the matter of [insert name of infant proposed to be adopted] and in the matter of the Adoption of Children Ordinance 1938.

UPON application made to the said Court this day on behalf of the applicant referred to in the Schedule hereto: Upon reading the Notice of Application for an Adoption Order herein, dated the day of \_\_\_\_\_, 19 \_\_\_\_\_, the affidavits included in the list following the Schedule hereto: And upon hearing what was alleged by Mr. \_\_\_\_\_ on behalf of the said applicant (or as the case may be): THIS COURT DOTH AUTHORIZE the said applicant to adopt \_\_\_\_\_, the infant referred to in the said Schedule and THIS COURT DOTH ORDER that the said infant be adopted by the said applicant, and be henceforth deemed to be an adopted child of the applicant within the meaning of the above-mentioned Ordinance.

SCHEDULE.

Particulars of Adopted Child.	Particulars of Applicant.
(a) Surname prior to adoption	Adopting father's—
(b) Christian name or names	(1) Surname
(c) Sex	(2) Christian name or names
(d) Date of Birth	(3) Occupation
(e) Place of birth	(4) Address
(f) Father's surname	Adopting mother's—
(g) Father's Christian name or names	(5) Surname
(h) Mother's maiden surname	(6) Christian name or names
(j) Mother's Christian name or names	(7) Occupation
	(8) Address

List of Affidavits.

Affidavit of \_\_\_\_\_, sworn \_\_\_\_\_, 19 \_\_\_\_\_.  
 Affidavit of \_\_\_\_\_, sworn \_\_\_\_\_, 19 \_\_\_\_\_.  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Magistrate.

FORM 4.

Rule 11.

Adoption of Children Ordinance 1938.

INTERIM ORDER.

In the Court of Petty Sessions at Canberra in the Territory for the Seat of Government.

In the matter of [insert name of infant proposed to be adopted] and in the matter of the Adoption of Children Ordinance 1938.

UPON application made by \_\_\_\_\_, of \_\_\_\_\_ [occupation] resident at \_\_\_\_\_ and domiciled in the Territory for the Seat of Government and not under the age of 25 years (or not less than 21 years older than the infant) hereinafter called the applicant, that he is desirous of being authorized under the Adoption of Children Ordinance 1938, to adopt \_\_\_\_\_ an infant of the \_\_\_\_\_ sex, aged \_\_\_\_\_ years, resident at \_\_\_\_\_ in the Territory for the Seat of Government, who has never been married, the child of \_\_\_\_\_ (and his wife), and all the consents required by the Ordinance being obtained: THIS COURT DOTH ORDER that the application is a proper application to grant and the following payment or reward is sanctioned, viz.: \_\_\_\_\_ and the determination of the application is postponed and this Court doth order that the custody of the infant be given to the applicant for a period not exceeding two years, viz., until the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, by way of a probationary period, and that the applicant shall at least two months before that date apply for a determination of the application, and as regards costs THIS COURT DOTH ORDER that \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Magistrate.

NOTE.—Where the order is made in favour of two spouses jointly the form should be modified.

FORM 5.

Rule 12.

*Adoption of Children Ordinance 1938.*

MEMORANDUM OF REGISTRATION OF ADOPTION ORDER.

Number of 19 .  
Date of Adoption Order:—  
The

day of , 19 .

Particulars of Adopted Child.	Particulars of Adopting Parents.
(a) Surname prior to adoption	Adopting father's— (1) Surname
(b) Christian name or names	(2) Christian name or names
(c) Sex	(3) Occupation
(d) Date of Birth	(4) Address
(e) Place of birth	Adopting mother's— (5) Surname
(f) Father's surname	(6) Christian name or names
(g) Father's Christian name or names	(7) Occupation
(h) Mother's maiden surname	(8) Address
(j) Mother's Christian name or names	

Registered this day of , 19 .  
Clerk of the Court of Petty Sessions.

THE SECOND SCHEDULE.

SCALE OF SOLICITORS' COSTS.

	£	s.	d.
1. Preparing and filing any necessary affidavit .. .. .	0	7	6
2. Preparing and filing consent .. .. .	0	5	0
3. Attending other than applicant to serve notice or obtain signature to consent or affidavit .. .. .	0	12	6
4. Preparing and filing application under Rule 14 when application made on notice .. .. .	0	12	6
5. Preparing and filing application under sub-section (3) of section 4 of the Ordinance or Rule 6 or Rule 7 when application made on notice .. .. .	0	3	6
6. Preparing and filing any other application when application made on notice .. .. .	0	12	6
7. Preparing case .. .. .	1	0	0
8. Attending hearing of application for adoption order .. .. .	0	15	0
For every hour or part after one hour .. .. .	0	5	0
9. Attending at hearing of any application other than for adoption order (e.g., for extension of time, &c.) .. .. .	0	5	0