



Australian Capital Territory

Supreme Court Rules Amendment

Subordinate Law 2000 No 23

We, Judges of the Supreme Court, make the following rules of court under section 36 of the *Supreme Court Act 1933*.

Dated 5 May 2000.

JEFFREY MILES
Chief Justice

JF GALLOP
Judge

TJ HIGGINS
Judge

KJ CRISPIN
Judge

AG TOWILL
Registrar



Australian Capital Territory

Supreme Court Rules Amendment

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made under the

Supreme Court Act 1933

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1 Commencement

These rules commence on the day they are notified in the Gazette.

2 Rules amended

These rules amend the *Supreme Court Rules*.

3 Substitution

Order 76, rule 1 is repealed and the following rules are substituted:

“1 Definitions for o 76

For this order:

Act means the *Adoption Act 1993*.

chief executive means the chief executive responsible for administering Chapter 2 (General objects, principles and parental responsibility) of the *Children and Young People Act 1999*.

discharging order means—

- (a) an order of the court under section 26 of the Act discharging an adoption order; or
- (b) an order of the court under subsection 52 (1) of the Act discharging an interim order.

dispensing order means an order of the court under subsection 35 (1) of the Act dispensing with the requirement for consent of a person to an adoption.

order for access to identifying information means an order of the court under section 75 or 76 of the Act.

variation order means an order of the court under section 41 of the Act varying or revoking a condition of an adoption order.

“1A Expressions same meaning as Act

An expression used in this order has the same meaning as in the Act.

“1B References to forms

A reference in this order to a form by number is a reference to the form in Schedule 8 with that number.”.

4 Substitution

Order 76, rule 2 is repealed and the following rule substituted:

“2 References to applicants in pt 7, div 2

For this Division, if an application for an adoption order is made on behalf of the proposed adoptive parent or parents by the chief executive or by the principal officer of a private adoption agency, the application is taken to have been made by the proposed adoptive parent or parents jointly.”.

5 Adoption orders—application

Order 76, rule 3 is amended by omitting subparagraph (1) (b) (i) and substituting the following subparagraph:

“(i) the chief executive; or”.

6 Substitution

Order 76, rule 4 is repealed and the following rule substituted:

“4 Adoption orders—notice of application

“(1) If an application for an adoption order is made by someone other than the chief executive or the principal officer of a private adoption agency, the applicant or applicants must give notice of the application to the chief executive not later than 28 days before the day fixed for hearing the application.

“(2) The notice under subrule (1) must—

- (a) be accordance with form 2; and
- (b) be accompanied by a copy of the affidavit under rule 5, and a copy of any document under rule 6, filed with the application.

“(3) A notice of an application for an adoption order under section 22 of the Act must be in accordance with form 2.”.

7 Adoption orders—documents in support of application

Order 76, rule 6 is amended—

- (a) by omitting subparagraph (1) (c) (ii) and substituting the following subparagraph:

“(ii) an affidavit or written statement by the chief executive that the chief executive has made reasonable inquiries and believes that the child is the person to whom the certificate relates;”;

- (b) by omitting subrule (3) and substituting the following subrule:

“(3) If it is impracticable to obtain a birth certificate of the child sought to be adopted, the applicant or applicants must state why it is impracticable to obtain a birth certificate in the affidavit under rule 5 or, if the applicant is the chief executive or the principal officer of a private adoption agency, in the report under paragraph 19 (1) (a) of the Act.”.

8 Substitution

Order 76, rule 7 is repealed and the following rule substituted:

“7 Adoption orders—entry of appearance opposing application

“(1) A person who is given notice of an application for an adoption order may enter an appearance to oppose the application by filing with the court a notice of appearance in accordance with form 3 within 10 days after being given notice of the application.

“(2) A person entering an appearance to oppose an application for an adoption order must, as soon as practicable after filing the notice of appearance, give a copy of the notice of appearance to—

- (a) if the application is made by a solicitor on behalf of the prospective adoptive parent or parents—the solicitor; or
- (b) to the applicant or applicants.

“(3) If notice of an application is given to the chief executive under rule 4, the chief executive may enter an appearance to oppose the application by filing with the court a notice of appearance in accordance with form 3 within 10 days after being given notice of the application.

“(4) If the chief executive enters an appearance to oppose an application for an adoption order, the chief executive must, as soon as practicable after filing the notice of appearance, give a copy of the notice of appearance to each person required to be given notice of the application under section 22 of the Act.”.

9 Dispensing orders—notice of application

Order 76, rule 11 is amended by omitting paragraph (1) (b) and substituting the following paragraph:

- “(b) if the application for the dispensing order is made by someone other than the chief executive—the chief executive; and”.

10 Substitution

Order 76, rule 12 is repealed and the following rule substituted:

“12 Dispensing orders—entry of appearance opposing application

“(1) A person who is given notice of an application for a dispensing order may enter an appearance to oppose the application by filing with the court a notice of appearance in accordance with form 8 within 10 days after being given notice of the application.

“(2) A person entering an appearance to oppose an application for a dispensing order must, as soon as practicable after filing the notice of appearance, give a copy of the notice of appearance to—

- (a) if the application is made by a solicitor on behalf of the prospective adoptive parents—the solicitor; or
- (b) the applicant or applicants.

“(3) The chief executive may enter an appearance to oppose an application for a dispensing order by filing with the court a notice of appearance in accordance with form 8 within 10 days after being given notice of the application.

“(4) If the chief executive enters an appearance to oppose an application for a dispensing order, the chief executive must give a copy of the notice of appearance to each person to whom notice of the application is required to be given under paragraphs 11 (1) (a) and (c).”.

11 Variation orders—application

Order 76, rule 14 is amended by omitting subparagraph (b) (i) and substituting the following subparagraph:

- “(i) a report from the chief executive (as required by subsection 41 (2) of the Act); and”.

12 Substitution

Order 76, rule 21 is repealed and the following rule substituted:

“21 Access to identifying information—notice of application

“(1) Notice of an application for an order for access to identifying information must be given to—

- (a) the chief executive; and
- (b) anyone—

- (i) whose approval would be sufficient under Division 3 of Part 5 of the Act to entitle the applicant to the identifying information; and
- (ii) who has refused approval.

“(2) A notice under subrule (1) must be in accordance with form 17.”.

13 Service of notice of applications

Order 76, rule 25 is amended by omitting paragraph (2) (a) and substituting the following paragraph:

- “(a) the chief executive by giving the notice to a member of the staff of the chief executive’s office; and”.

14 Amendments of sch 8, forms

Schedule 8 is amended—

- (a) by omitting from forms 1, 2, 6, 7, 13 and 14 “Director of Family Services” and substituting “chief executive responsible for adoption”; and
- (b) by omitting paragraph 3 from form 20 and substituting the following paragraphs:

“3. I served [*the chief executive responsible for adoption/*the principal officer of [name], an adoption agency] by giving the copy of the notice to a member of staff of [*the office of the chief executive/*the adoption agency].

4. The member of staff was identified as such in the following way:

[Here set out the way in which the deponent identified that the person was such a member of staff.]”.

Endnotes

Rules amended

- 1 Republished as in force on 2 February 1998. See also SL 1998 Nos 23 and 35; 1999 No 26; 2000 No 17.

Notification

- 2 Notified in the Gazette on 25 May 2000.