

T A S M A N I A.



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ANNO UNDECIMO
 GEORGII V. REGIS.
 No. 5.

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Adoption of Children.

A.D. 1920.

“Adopting parent” means any person who is by any such order of adoption, as hereinafter provided, authorised to adopt a child; and in case of an order being made in favour of a husband and wife on their joint application, means both husband and wife;

“Child” means a boy or girl under the age of Seventeen years:

“Child of the State” means a child of the State within the meaning of “The Children’s Charter”:

“Deserted child” means any child who, in the opinion of the police magistrate dealing with such child under this Act, is deserted and has ceased to be cared for and maintained by its parents or by such one of them as is living, or by the guardian of such child, or by the mother of such child if the child be illegitimate.

Adoption of female child.

Cf., *ibid.*, s. 16, N.Z.Cf. *ibid.*, s. 3, W.A.

3 On the application, in writing, in the prescribed form, to a police magistrate by—

- i. Husband and wife jointly; or by
- ii. A married woman alone, but with the written consent of her husband; or by
- iii. Any unmarried woman or a widow who is in the opinion of the police magistrate at least Eighteen years older than the child; or by
- iv. Any unmarried man or a widower who is in the opinion of the police magistrate at least Forty years older than the child—

an order of adoption of a female child may be made by the police magistrate in favour of the applicant in the prescribed form and subject to the provisions of this Act.

By whom male child may be adopted.

Cf. *ibid.*, s. 17, N.Z.Cf. *ibid.*, s. 4, W.A.

4 On the application, in writing, in the prescribed form, to a police magistrate by—

- i. Husband and wife jointly; or by
- ii. A married man alone, but with the written consent of his wife; or by
- iii. Any unmarried man or a widower who is in the opinion of the police magistrate at least Eighteen years older than the child; or by
- iv. Any unmarried woman or a widow who is in the opinion of the police magistrate at least Thirty years older than the child—

an order of adoption of a male child may be made by the police magistrate in favour of the applicant in the prescribed form and subject to the provisions of this Act.

Consents required previous to adoption of child.

Cf. *ibid.*, s. 18, N.Z.Cf. *ibid.*, s. 5, W.A.

5—(1) Before making such order of adoption the police magistrate—

- i. May compel the attendance before him of any witness and for that purpose may sign, issue, and cause to be personally served upon the witness a summons in the prescribed form:

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- ii. Shall take evidence on oath *viná voce* or by affidavit in proof of or concerning any fact, matter, or thing required by this Act or by the police magistrate to be proved : A.D 1920.
- iii. Shall be satisfied that --
- (a) The child is under the age of Seventeen years ;
 - (b) The person proposing to adopt the child is of good repute, and a fit and proper person to have the care and custody thereof, and of sufficient ability to bring up, maintain, and educate the child ;
 - (c) The welfare and interests of the child will be promoted by the adoption ; and
 - (d) The consents required by this Act have been duly signed and filed :
- iv. Shall be satisfied that the child, if over the age of Twelve years, consents to the adoption :
- v. Shall, except in the case of a child of the State, require the consent in writing of the parents, whether living in or out of this State, or such One of them as is living at the date of the application, or if both the parents are dead, then of the legal guardian of the child, or if One of the parents has deserted the child, then the consent of the other parent :
- vi. Shall not require any such consent in the case of a deserted child or a child of the State :
- vii. Shall in the case of a child of the State require the consent of the Secretary of the Children of the State Department.

(2) The affidavit referred to in Paragraph ii. hereof may be sworn before any police magistrate, solicitor, registrar or deputy-registrar of the Supreme Court, clerk of Petty Sessions, or any justice or any commissioner of the Supreme Court for taking affidavits.

Before whom affidavit may be sworn.
Ibid., s. 18, N.Z.

6 Except by husband and wife, as hereinbefore mentioned, no child shall be adopted by more than One person.

Child can be adopted by One person only.
Cf. *ibid.*, s. 19, N.Z.
Cf. *ibid.* W.A., s. 6, N.Z.

7—(1) It shall be lawful, with the consent of a police magistrate, but not otherwise, for any person adopting a child under this Act to receive a premium or other consideration in respect of such adoption.

Adopting parent not to receive premium without consent of a police magistrate.
Cf. *ibid.*, s. 20, N.Z.
Penalty.

(2) Any person receiving a premium or other consideration without such consent as aforesaid, in respect of the adoption of a child, shall be liable to a penalty not exceeding One hundred Pounds, which may be recovered in a summary way by and before a police magistrate, or any Two or more justices, in the mode prescribed by "The Justices' Procedure Act, 1919," the provisions of which Act shall apply.

8—(1) An order of adoption made under this Act shall confer the surname of the adopting parent on the adopted child, in addition to the proper name of the child ; and the adopted child shall for all purposes, civil and criminal, and as regards all legal and equitable liabilities, rights, benefits, privileges, and consequences of the natural relation of parent and child, be deemed in law to be the child born in lawful wedlock of the adopting parent.

Adopted child to have legal status of legitimate child.
Cf. *ibid.*, s. 21, N.Z.
Cf. *ibid.* W.A., ss. 7 and 10.

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Exception.

Provided that such adopted child shall not by such adoption —

- i. Acquire any right, title, or interest in any property which would devolve on any child of the adopting parent by virtue of any deed or instrument made prior to the date of such order of adoption, or by virtue of any will made prior to such date by any person other than the adopting parent, unless it is expressly so stated in such deed, instrument, or will : nor
- ii. Be entitled to take property expressly limited to the heirs of the body of the adopting parent, nor property from the lineal or collateral kindred of such parent by right of representation : nor
- iii. Acquire any property vested or to become vested in any child of lawful wedlock of the adopting parent in the case of the intestacy of such last-mentioned child, or otherwise than directly through such adopting parent.

Adopting parent to have legal status of natural parent.

Cf. *ibid.*, s. 21,

N.Z.

Cf. *ibid.*, W.A.,

s. 8.

(2) Where such order of adoption has been made, the adopting parent shall for all purposes, civil, criminal, or otherwise, be deemed in law to be the parent of such adopted child, and be subject to all liabilities affecting such child as if such child had been born to such adopting parent in lawful wedlock ; and such order of adoption shall thereby terminate all the rights and legal responsibilities and incidents existing between the child and his natural parents, except the right of the child to take property as heir or next-of-kin of his natural parents directly or by right of representation.

Order may be reversed or discharged.

Cf. *ibid.*, s. 22,

N.Z.

Cf. *ibid.*, s. 9, W.A.

Consent of child.

On discharge of order, rights and responsibilities of parties revive.

Cf. *ibid.*, s. 22,

ss. (2), N.Z.

9—(1) It shall be lawful for any police magistrate in his discretion to vary, reverse, or discharge an order of adoption whether made by himself or any other police magistrate, subject to such terms and conditions as he thinks fit ; but if the child has attained the age of Twelve years the order of adoption shall not be reversed or discharged without the consent of such child given orally before the magistrate.

(2) Where an order of adoption is discharged, then, subject to the conditions (if any) named in the discharging order, the child and its natural parents, and the adopting parent, shall be deemed for all purposes to be restored to the same position *inter se* as existed immediately before the order of adoption was made.

Provided that such restoration shall not affect anything lawfully done or any right or interest which became vested in the child whilst the order of adoption was in force.

Procedure.

9 Geo. V. No. 15.

10 All applications made under this Act to a police magistrate shall be heard in a children's court as defined in and established under "The Children's Charter," all the provisions whereof as to proceedings in such court shall (except as may be otherwise prescribed in the regulations made under this Act) apply to proceedings under this Act.

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11 The Governor may from time to time make such rules and regulations as he thinks fit for all or any of the following purposes, that is to say :—

- i. Prescribing the forms and mode of procedure to be used in exercising the jurisdiction hereby conferred upon any police magistrate ; and
- ii. Prescribing the mode of registering and keeping a proper register of all orders made under this Act ; and
- iii. Prescribing the fees to be paid in respect of such procedure, registration, and otherwise ; and
- iv. Generally for any other purpose that the Governor deems necessary or convenient in order to give full effect to the provisions of this Act.

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Power to make regulations.

Cf. *ibid.*, s. 25. N.Z.*Ibid.*, s. 11.W.A.

12 Nothing in this Act shall be construed to authorise any marriage that could not lawfully have been contracted if this Act had not been passed.

Marriage law not affected.

Ibid., s. 26, N.Z.

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