

ADOPTION OF CHILDREN ORDINANCE 1938-1949
AND THE
COURT OF PETTY SESSIONS ORDINANCE 1930-1958.

ADOPTION OF CHILDREN RULES.*

1. These Rules may be cited as the Adoption of Children Rules.* Short title
2. In these Rules, unless the contrary intention appears— Definition.
 “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 therewith. 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.

* The Adoption of Children Rules in force under the *Adoption of Children Ordinance* 1938-1949 and the *Court of Petty Sessions Ordinance* 1930-1958 comprise the following Rules:—

Year and Number.	Date on which made.	Date of Notification in <i>Gazette</i> and Date of Commencement.
1952, No. 4	10th March, 1938 24th January, 1952	31st March, 1938 7th February, 1952

The Adoption of Children Rules were also amended by the *Seat of Government (Designation) Ordinance* 1938 (No. 25 of 1938) published in the *Gazette*, 8th September, 1938.

ADOPTION OF CHILDREN ORDINANCE AND COURT OF PETTY
SESSIONS ORDINANCE.

Evidence in support of application.

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

(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.

Consents.

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.

Order for adoption.

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.

Interim order.

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

Registration. Sub-rule (1.) amended by 1952, No. 4.

12.—(1.) 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.

Added by 1952, No. 4.

(2.) The entries in the Register of Adoption Orders are not open to inspection except in pursuance of an order made by a court of competent jurisdiction and a copy of, or extract from, a Memorandum of Registration of Adoption Order entered in the Register shall not be furnished to a person except in pursuance of such an order.

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.

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. Powers of Court.

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. Court of Petty Sessions Ordinance and Rules to apply.

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. Applications may be made without notice.

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

THE FIRST SCHEDULE.

FORM 1.

Rule 3. Form 1 amended by Ordinance No. 25, 1938.

Adoption of Children Ordinance 1938.

NOTICE OF APPLICATION FOR AN ADOPTION ORDER.

In the Court of Petty Sessions at Canberra in the Australian Capital Territory.
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).

ADOPTION OF CHILDREN ORDINANCE AND COURT OF PETTY SESSIONS ORDINANCE.

Form 2, amended by Ordinance No. 25, 1938.

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 Australian Capital Territory. In the matter of [*insert name of infant proposed to be adopted*] 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.

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.

Adoption of Children Rules

FORM 4.

Rule 11. Form 4 amended
by Ordinance
No. 25, 1938.

Adoption of Children Ordinance 1938.

INTERIM ORDER.

In the Court of Petty Sessions at Canberra in the Australian Capital Territory.

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 Australian Capital Territory 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 Australian Capital Territory, 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.

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

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

ADOPTION OF CHILDREN ORDINANCE AND COURT OF PETTY
SESSIONS ORDINANCE.

THE SECOND SCHEDULE.

SCALE OF SOLICITOR'S COSTS

	<i>£</i>	<i>s.</i>	<i>d.</i>
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