

## Authorised Version

### Adoption Amendment (Adoption by Same-Sex Couples) Regulations 2016

S.R. No. 85/2016

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## **Authorised Version**

STATUTORY RULES 2016

S.R. No. 85/2016

*Adoption Act 1984*

### **Adoption Amendment (Adoption by Same-Sex Couples) Regulations 2016**

The Governor in Council makes the following Regulations:

Dated: 5 July 2016

Responsible Minister:

JENNY MIKAKOS

Minister for Families and Children

ANDREW ROBINSON

Clerk of the Executive Council

#### **1 Objective**

The objective of these Regulations is to amend the Adoption Regulations 2008—

- (a) to reflect amendments made to the **Adoption Act 1984** enabling adoption by same-sex couples; and
- (b) to provide for the use of gender-neutral language.

#### **2 Authorising provision**

These Regulations are made under section 130 of the **Adoption Act 1984**.

#### **3 Commencement**

These Regulations come into operation on 1 September 2016.

#### 4 Principal Regulations

In these Regulations, the Adoption Regulations 2008<sup>1</sup> are called the Principal Regulations.

#### 5 Definitions

In regulation 5 of the Principal Regulations, for the definition of *spouse substitute*—

"*spouse* includes a domestic partner;".

#### 6 Registration of adoption orders

(1) For regulation 38(3)(b) and (c) of the Principal Regulations **substitute**—

"(b) if the adoption is by 2 adoptive parents, the given names, the family name (including the maiden name, if applicable), the age at the birth of the child and the usual occupation of each adoptive parent; and

(c) if the adoption is by the spouse of a parent, the given names, the family name (including the maiden name, if applicable), the age at the birth of the child and the usual occupation of the parent and of the spouse of the parent; and".

(2) For regulation 38(3)(d) of the Principal Regulations **substitute**—

"(d) if the adoption is by 2 adoptive parents or the spouse of a parent and—

(i) the adoptive parents or the spouse and parent are married, the date and place of the marriage; or

(ii) the adoptive parents or the spouse and parent are in a registered domestic relationship or a corresponding law relationship within the meaning

of section 33A of the **Relationships Act 2008**, the date and place that their relationship was registered under section 10(3)(a) of that Act or was registered or formally recognised under a corresponding law within the meaning of section 33A of that Act; or

- (iii) the adoptive parents or the spouse and parent are not in a registered domestic relationship, the date their relationship commenced; and".

**7 Schedule 4—Information to be provided in application for approval as fit and proper person to adopt a child**

- (1) In Schedule 4 to the Principal Regulations, for "his or her" **substitute** "the applicant's".
- (2) In Schedule 4 to the Principal Regulations, for the words and expressions commencing with "A statement to the effect that the applicant understands that he or she" and ending with "previous assessments for placement of children and other personal information." **substitute**—  
"A statement to the effect that the applicant understands that the applicant may also be asked to complete or provide other forms or documents such as birth certificates, medical forms, marriage and divorce certificates, certificates certifying particulars contained in an entry in the Relationships Register within the meaning of the **Relationships Act 2008**, citizenship certificates, police record authorisation, and previous assessments for placement of children and other personal information or to provide evidence that a relationship is a corresponding law relationship within the meaning of section 33A of the **Relationships Act 2008**."

**8 Schedule 5 substituted**

For Schedule 5 to the Principal Regulations  
**substitute—**

**'Schedule 5**

Adoption Regulations 2008

Regulation 36

**STATEMENT OF PERSONAL DETAILS REQUIRED TO BE  
SUBMITTED WITH AN APPLICATION FOR APPROVAL AS  
A FIT AND PROPER PERSON TO ADOPT A CHILD**

Purpose of this form:

The information you provide in this form is designed to assist the adoption agency to advise you about your eligibility to adopt a child. It also includes some of the matters the Court will consider if you make an application to the Court to adopt a child.

Information about your religion, race or ethnic background is relevant as the agency must consider the wishes of a natural parent before placing a child with you.

The information you provide must be correct at the time you sign the form, although it is understood your circumstances may change to some extent.

If any question does not apply to you, write "N.A." in the space provided.

	<i><b>APPLICANT No. 1</b></i>	<i><b>APPLICANT No. 2</b></i>
<b>PERSONAL DETAILS</b>		
Surname		
Given names		
Address		
Previous surnames		
Sex/gender		
Date of birth		
Place of birth (i.e. State or country of birth)		

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	<i><b>APPLICANT No. 1</b></i>	<i><b>APPLICANT No. 2</b></i>
Marital/relationship status (i.e. married, divorced, widow/er, in domestic relationship, separated or single)		
If currently married, date and place of marriage (i.e. country, State, town or suburb)		
If currently in a registered domestic relationship, date and place of registration or formal recognition of relationship (i.e. country, State, town or suburb)		
If currently in a domestic relationship that is not a registered domestic relationship, the date of commencement of that relationship		
Previous marriages and registered domestic relationships—		
(If divorced—country or State, date and number of divorce)		
(If registered domestic relationship has been revoked—country or State, date of revocation)		
If a widow/er—date of death of spouse		

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	<i><b>APPLICANT No. 1</b></i>	<i><b>APPLICANT No. 2</b></i>
Nationality		
If naturalised, date of citizenship/ naturalisation		
Race or ethnic origin		
Religion		
Education level achieved		
Qualifications		
Current occupation (include household duties or unemployed)		
Current employer (name and address)		
Preferred parental description, either "parent", "mother" or "father" (for the purposes of possible future adoption order)		
Children (List the names and dates of birth of all children in your care indicating under "Relationship" whether they are your children by birth, adoption or otherwise or are fostered etc., and under "Court Orders" note whether a court order such as guardianship, custody, access or maintenance applies.)		

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	<i><b>APPLICANT No. 1</b></i>		<i><b>APPLICANT No. 2</b></i>	
	Relationship	Court Orders	Relationship	Court Orders
Child 1 (name) (date of birth) Child 2 (name) (date of birth) Child 3 (name) (date of birth) Child 4 (name) (date of birth)				
Health—Applicants: (Please give names and addresses of medical practitioners known to you who may be able to provide medical reports.) Doctor's name: Address: Telephone no.: Doctor's name: Address: Telephone no.: Doctor's name: Address: Telephone no.:				
Health—Children: (Please comment generally on the physical and emotional health of each child in your care noting any particular problem or concerns occurring now or previously including any specialist treatment or				



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	<i><b>APPLICANT No. 1</b></i>	<i><b>APPLICANT No. 2</b></i>
services provided. For preschool children a paediatric report will be required.)		
Social development— Children: (Please provide details of one referee per child as follows.) Name of preschool centre manager/ teacher or principal: Child's name: Preschool/school: Grade: Address: Telephone no.:		
<b>FINANCIAL STATEMENT</b>		
<b>PART A: INCOME— EXPENDITURE</b>		
(1) Annual income		
Salary and wages and/or net income from business		
Centrelink payments (and type of benefit)		
Spousal maintenance from previous relationship(s)		
Child support from previous relationship(s)		
Dividends and interest		
Rents		

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	<i><b>APPLICANT No. 1</b></i>	<i><b>APPLICANT No. 2</b></i>
All other sources (please specify)		
If joint income (e.g. business), please specify		
<b>TOTAL ANNUAL INCOME FOR EACH APPLICANT</b>		
(2) Annual expenses		
Income tax		
Insurance and superannuation		
Health insurance		
Rent		
Rates and taxes		
Mortgage payments Residence(s) Investment Property(ies) Business property(ies)		
Food and household expenditure		
Electricity/gas/fuel		
Telephone		
Clothing		
Child care and education		
Entertainment		
Fares		
Car maintenance and registration		
Hire purchase/credit payments		

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	<i><b>APPLICANT No. 1</b></i>	<i><b>APPLICANT No. 2</b></i>
Maintenance from previous relationship		
Professional membership/ education fees		
Personal loans		
Travel		
Other (please specify)		
If joint expenditure (e.g. business), please specify		
<b>TOTAL ANNUAL EXPENSES FOR EACH APPLICANT</b>		
<b>TOTAL NET INCOME</b>		
<b>PART B: ASSETS AND LIABILITIES</b>		
(1) Assets		
Family residence(s)		
Investment property(ies) (Please give improved capital value.)		
Shares and debentures		
Credits in bank savings accounts, building societies, and cash on hand		
Insurance policies (Please specify surrender value.)		
Motor vehicles (Please give present value.)		

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	<i><b>APPLICANT No. 1</b></i>	<i><b>APPLICANT No. 2</b></i>
Other property (Please give value.)		
(2) Liabilities/ financial obligations (not included in Part A)		
Amount owing:		
Residence(s)		
Investment property(ies)		
Business property(ies)		
Personal loan(s) (including credit cards)		
Other		
<b>REFEREES</b>		
Referee 1 Name: Address: Contact telephone no.: Nature of relationship to applicant:		
Referee 2 Name: Address: Contact telephone no.: Nature of relationship to applicant:		
Referee 3 Name: Address: Contact telephone no.: Nature of relationship to applicant:		

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	<i>APPLICANT No. 1</i>	<i>APPLICANT No. 2</i>
Referee 4 Name: Address: Contact telephone no: Nature of relationship to applicant:		

Signature, Applicant No. 1

Signature, Applicant No. 2

Signature of Witness

Signature of Witness

Name of Witness

Name of Witness

Address of Witness

Address of Witness

Date

Date'.

**9 Schedule 6—Written information to be provided by  
counsellor**

- (1) In Schedule 6 to the Principal Regulations, for the words and expressions commencing with "*permanent care* of your child" and ending with "your legal rights as a parent." **substitute** "*permanent care* of your child by another person who may have a legal order such as a parenting order or adoption order. When these orders exist, they involve the transfer of some or all of your legal responsibilities as a parent."
- (2) In Schedule 6 to the Principal Regulations, for "*Transfer of rights*" **substitute** "*Transfer of rights and responsibilities*".

- (3) In Schedule 6 to the Principal Regulations, after "When an adoption order is granted to a step-parent who is married to" **insert** ", or in a domestic relationship with,".

**10 Schedule 9—Forms of consent to the adoption of a child**

In Forms 2 and 3 of Schedule 9 to the Principal Regulations, for "guardianship order or custody order or both a guardianship and custody order" **substitute** "parenting order".

**11 Schedule 19—Child care agreement—child awaiting adoption**

In Schedule 19 to the Principal Regulations—

- (a) for "Name of parent or person having custody or guardianship of child:" **substitute** "Name of parent of child or person with parental responsibility for child:";
- (b) for ", CUSTODIAN OR GUARDIAN OF CHILD" **substitute** "OF CHILD OR PERSON WITH PARENTAL RESPONSIBILITY FOR CHILD";
- (c) for "the right to make" **substitute** "parental responsibility to make";
- (d) for "a right to custody or guardianship of" **substitute** "parental responsibility for";
- (e) for "Signature of parent, custodian or guardian of child:" **substitute** "Signature of parent of child or person with parental responsibility for child:".

**12 Schedule 21 substituted**

For Schedule 21 of the Principal Regulations  
**substitute—**

**"Schedule 21**

Regulation 38

**MEMORANDUM OF AN ADOPTION ORDER**

**\*DETAILS OF THE CHILD**

The registered birth given name or names and family name of the child.

The date and place of birth of the child.

The sex of the child.

The given name or names and family name of the child under the adoption order.

**DETAILS OF EACH ADOPTIVE PARENT**, in the case of adoption by 2 adoptive parents.

The given name or names and family name (including maiden name, if applicable) of each adoptive parent.

Each adoptive parent's place of birth and age at the date of birth of the child.

Each adoptive parent's usual occupation.

Each adoptive parent's place of residence.

*Or*

**DETAILS OF THE PARENT AND THE ADOPTIVE PARENT**, in the case of adoption by the spouse of a parent or another person.

The given name or names and family name (including maiden name, if applicable) of the parent and of the adoptive parent.

The parent's and adoptive parent's place of birth and age at the date of birth of the child.

The parent's and adoptive parent's usual occupation.

The parent's and adoptive parent's place of residence.

**\*\*DETAILS OF THE RELATIONSHIP OF THE ADOPTIVE PARENTS  
OR THE RELATIONSHIP OF THE PARENT AND ADOPTIVE PARENT**

If married—

The date of the marriage of the adoptive parents or of the adoptive parent and spouse.

The place of marriage of the adoptive parents or of the adoptive parent and spouse.

If in a registered domestic relationship—

The date of the registration or formal recognition of the domestic relationship of the adoptive parents or of the adoptive parent and spouse.

The place of registration or formal recognition of the domestic relationship of the adoptive parents or of the adoptive parent and spouse.

If neither married nor in a registered domestic relationship—

The date of commencement of the relationship of the adoptive parents or of the adoptive parent and spouse.

**DETAILS OF OTHER CHILDREN OF THE ADOPTIVE PARENTS OR  
OF THE ADOPTIVE PARENT AND SPOUSE (including deceased children  
and stillborn children if the information is available)**

The name or names of each child in order of birth.

The age (in years) of each child at the time of birth of the child now being registered.

**\*\*\*DETAILS OF THE INFORMANT (as defined in regulation 38(5))**

The full name of the informant.

The address of the informant.

The signature of the informant.

**DETAILS OF THE ADOPTION ORDER**

The date of the adoption order.

The Court and the place where the order was made.



\*\*\*\*OTHER DETAILS

Whether the adoptive parents are related to the child and, if so, the relationship in each case.

Whether the adoption order is in respect of an Aboriginal child (order under section 50 of the Act) and, if so, a statement that the child is a child to whom section 114 of the Act applies and the name of any Aboriginal agency involved.

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\*Note: If the place of birth of the child is not known, record the place where the child was first located.

\*\*Note: Not required if the adoption order is made in respect of one adoptive parent who is not the spouse of a parent.

\*\*\*Note: Not required if the adoption order is made in respect of an adult.

\*\*\*\*Note: Not required if the adoption is finalised in a Convention country."

### 13 Amendments relating to gender neutral language

#### (1) In the Principal Regulations—

- (a) in regulation 17(1), for "his or her"  
**substitute** "the relevant person's";
- (b) in regulation 18(1) and (3), for "his or her"  
**substitute** "the parent's";
- (c) in regulation 19(3), for "his or her"  
**substitute** "the person's";
- (d) in regulation 20(a), for "his or her"  
(wherever occurring) **substitute**  
"the person's";
- (e) in regulation 28(b), for "his or her"  
**substitute** "the parent's".

#### (2) In the Principal Regulations—

- (a) in Form 1 of Schedule 7—
  - (i) for "he or she" **substitute** "the parent";
  - (ii) for "his or her" (wherever occurring)  
**substitute** "the parent's";
  - (iii) for "the person" **substitute** "the parent";

- (b) in Form 2 of Schedule 7—
  - (i) for "he or she" (wherever occurring)  
**substitute** "the natural parent";
  - (ii) for "his or her" (wherever occurring)  
**substitute** "the natural parent's";
  - (iii) for "him or her" **substitute** "the natural parent";
- (c) in Schedule 8—
  - (i) for "he or she" (wherever occurring)  
**substitute** "the natural parent";
  - (ii) for "his or her" (wherever occurring)  
**substitute** "the natural parent's";
  - (iii) for "him or her" **substitute** "the natural parent";
- (d) in Form 1 of Schedule 9—
  - (i) for "he or she" (where twice occurring)  
**substitute** "the person";
  - (ii) **omit** "his or her" (where first occurring);
  - (iii) for "his or her" (where secondly occurring) **substitute** "the person's";
- (e) in Form 2 of Schedule 9—
  - (i) **omit** "and a statement whether the person is the husband or wife or de facto husband or wife of the spouse";
  - (ii) for "his or her" (wherever occurring)  
**substitute** "the person's";
- (f) in Form 3 of Schedule 9—
  - (i) for "he or she" **substitute** "the person";
  - (ii) **omit** "his or her" (where first occurring);

- (iii) for "his or her" (where secondly occurring) **substitute** "the person's";
- (g) in Form 4 of Schedule 9—
  - (i) for "he or she" (wherever occurring) **substitute** "the person";
  - (ii) for "his or her" (wherever occurring) **substitute** "the person's";
  - (iii) for "him or her" (where twice occurring) **substitute** "the person";
  - (iv) for "himself or herself" (where twice occurring) **substitute** "themselves";
- (h) in Schedule 10—
  - (i) for "he or she" (wherever occurring, other than its penultimate occurrence) **substitute** "the person signing the statements";
  - (ii) for "he or she" (where penultimately occurring) **substitute** "the person giving consent";
  - (iii) for "his or her" **substitute** "the person's";
  - (iv) for "him or her" **substitute** "the person";
  - (v) for "the person as required" **substitute** "the person giving consent to the adoption as required";
- (i) in Schedule 11—
  - (i) for "he or she" (wherever occurring) **substitute** "the official";
  - (ii) for "his or her" (where twice occurring) **substitute** "the person's";

- (j) in Schedule 12, for "he or she" **substitute** "the person";
- (k) in Schedule 13—
  - (i) for "the mother of the child, and the father" **substitute** "each parent";
  - (ii) for "the mother or the father" **substitute** "that parent";
  - (iii) for "the mother or father" **substitute** "either parent";
  - (iv) for "his or her" **substitute** "the person's";
- (l) in Schedule 14—
  - (i) **omit** "his or her" (where twice occurring);
  - (ii) for "his, her or their care" **substitute** "either or both parents' care";
- (m) in Schedule 15—
  - (i) for "he or she" (wherever occurring) **substitute** "the person";
  - (ii) **omit** "his or her" (where first and secondly occurring);
  - (iii) for "his or her" (where thirdly occurring) **substitute** "the person's";
- (n) in Schedule 16—
  - (i) for "he or she" (wherever occurring) **substitute** "the person";
  - (ii) for "his or her" (wherever occurring) **substitute** "the person's";
- (o) in Schedule 17—
  - (i) for "he or she" (wherever twice occurring) **substitute** "the person";

- (ii) for "his or her" **substitute**  
"the person's";
  - (p) in Schedule 18—
    - (i) for "he or she" **substitute** "the person";
    - (ii) for "his or her" (where first and thirdly occurring) **substitute** "the person's";
    - (iii) **omit** "his or her" (where secondly occurring);
  - (q) in Schedule 23—
    - (i) for "or which he or she" **substitute**  
"of which the member of staff";
    - (ii) for "his or her" (wherever occurring)  
**substitute** "the member's".
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## **Endnotes**

<sup>1</sup> Reg. 4: S.R. No. 10/2008 as amended by S.R. Nos 76/2013 and 19/2014.