



Western Australia.

ANNO SEXAGESIMO

VICTORIÆ REGINÆ.

No. VI.

AN ACT to make Provision for the Adoption of Children.

[Assented to, 23rd September, 1896.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THE short title of this Act is the Adoption of Children Act, 1896. Short titl.

2. IN this Act, and in all rules made thereunder, if not inconsistent with the context,— Interpretation.

“Child” means any boy or girl under the age of fifteen years:

“Deserted Child” means any child who, in the opinion of the Judge dealing with such child under the provisions of the 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 is illegitimate:

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“ Adopted Child ” means any child concerning whom an order of adoption, as herein 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, shall mean and include both husband and wife :

“ Judge ” means a Judge of the Supreme Court :

“ Prescribed ” means prescribed by rules to be made by the Governor under this Act.

By whom female child may be adopted. **3.** UPON the application in writing, in the prescribed form, to a Judge by—

- (1.) Husband and wife jointly, or by
- (2.) A married woman alone, but with the written consent of her husband, or by
- (3.) Any married woman who is, in the opinion of the Judge, at least eighteen years older than the child, or by
- (4.) Any married man who is, in the opinion of the Judge, at least thirty years older than the child,

an order of adoption of a *female* may be made by the Judge in favour of the applicant, in the prescribed form, and subject to the provisions of this Act.

By whom male child may be adopted. **4.** UPON the application in writing, in the prescribed form, to a Judge by—

- (1.) Husband and wife jointly, or by
- (2.) A married man alone, but with the written consent of his wife, or by
- (3.) Any unmarried man who is, in the opinion of the Judge, at least eighteen years older than the child, or by
- (4.) Any unmarried woman who is, in the opinion of the Judge, at least thirty years older than the child,

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

Consents required previous to adoption of child. **5.** BEFORE making such order of adoption, the Judge—

- (1.) May compel the attendance before him of any witness ; and, for that purpose, may direct the issue and service upon the witness of a summons in the prescribed form ;

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- (2.) Shall take evidence *viva voce*, upon oath or by affidavit, in proof of or concerning any fact, matter, or thing required by this Act or by the Judge to be proved;
- (3.) Shall be satisfied that the child is under the age of fifteen years; that 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; that the welfare and interest of the child will be promoted by the adoption, and that the consents required by this Act have been duly signed and filed;
- (4.) Shall be satisfied that the child, if over the age of twelve years, consents to the adoption;
- (5.) Shall require the consent in writing of the parents, whether living within the Colony or beyond the limits thereof, or such one of them as is living at the date of such 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;
- (6.) Shall not require any such consent in the case of a deserted child.

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.

7. WHEN an order of adoption has been made, 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 parents.

Adopted child to have legal status of legitimate child.

Provided always, that such adopted child shall not by such adoption—

Exception.

- (1.) Acquire any right, title, or interest whatsoever in any property which would devolve on any child of the adopting parent by virtue of any deed, will, or instrument whatsoever prior to the date of such order of adoption, unless it is expressly so stated in such deed, will or instrument; nor
- (2.) 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

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(3.) 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.

8. WHEN an order of adoption has been made the adopting parent shall, for all purposes, civil, criminal, or otherwise howsoever, 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 or her 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.

9. IT shall be lawful for any Judge of the Supreme Court, in his discretion, to vary, reverse, and discharge an order of adoption, whether made by himself or any other Judge, subject to such terms and conditions as he thinks fit.

Name of adopted child.

10. THE order of adoption shall confer the surname of the adopting parent on the adopted child, in addition to the proper name of the child.

Power to make rules.

11. THE Governor may from time to time make such rules as he thinks fit, prescribing the forms and mode of procedure to be used in exercising the jurisdiction hereby conferred upon any Judge, and prescribing the mode of registering and keeping a proper register of all orders made under this Act, and also prescribing the fees to be paid in respect of such procedure, registration, and otherwise, and generally giving full effect to the provisions of this Act.

In the name and on behalf of the Queen I hereby assent to this Act.

GERARD SMITH, Governor.