

CN301\*

Adoption Act 1994

## Adoption Amendment Regulations 2012

Made by the Governor in Executive Council.

### 1. Citation

These regulations are the *Adoption Amendment Regulations 2012*.

### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Adoption Amendment Act 2012* section 4 comes into operation.

### 3. Regulations amended

These regulations amend the *Adoption Regulations 1995*.

### 4. Regulation 26 deleted

Delete regulation 26.

### 5. Regulation 27 replaced

Delete regulation 27 and insert:

### 27. Deputy chairperson

- (1) The CEO is to appoint one of the members who is independent of the Department to be the deputy of the chairperson of the committee.
- (2) The deputy chairperson is to act as the chairperson of the committee if the chairperson is not available to act.

**6. Regulation 31 amended**

In regulation 31(a) delete “presiding member” (each occurrence) and insert:

chairperson

**7. Regulation 32 amended**

In regulation 32(2) delete “presiding member” and insert:

chairperson

**8. Regulation 33 amended**

In regulation 33 delete “presiding member” and insert:

chairperson

**9. Regulation 38 amended**

(1) Delete regulation 38(3)(b)(ii) and insert:

- (ii) the applicant has expressed an interest in adopting —
  - (I) children who are siblings; or
  - (II) a child who (in the opinion of the CEO) has a disability; or
  - (III) a child who is more than 12 months old; or
  - (IV) a child who is resident in Australia.

**10. Regulation 39A inserted**

At the end of Part 4 Division 1 insert:

**39A. Continuing application after separation**

- (1) A person who applied jointly with another person under section 38(1) of the Act may request the CEO to continue the application in the person’s own name if —
  - (a) the person commences living separately and apart from the joint applicant; and
  - (b) a period of 12 months has elapsed since the joint applicants commenced living separately and apart.

- (2) A request must —
  - (a) be made in a form approved by the CEO; and
  - (b) include evidence in relation to the matters referred to in section 39 of the Act that are to be satisfied by the person making the request.
- (3) On a request under subregulation (1) the CEO may approve the continuation of the application in the name of the person making the request if the person has satisfied the CEO in relation to the matters referred to in section 39 of the Act relevant to that person.
- (4) If the continuation of an application is approved under this regulation —
  - (a) the application in the person's own name is to be taken to have been made on the day on which the joint application was made; and
  - (b) any assessment of the suitability of the joint applicants for adoptive parenthood does not apply in respect of the suitability for adoptive parenthood of the person in whose name the application is continued.

**11. Regulation 44 amended**

- (1) After regulation 44(c) insert:
  - (da) the person is requested, in writing sent by registered post, by the CEO to provide information relevant to the person's suitability for adoptive parenthood and does not provide the requested information within 28 days; or
- (2) In regulation 44 after each of paragraphs (a) and (b) insert:

or

**12. Regulation 50 deleted**

Delete regulation 50.

**13. Regulation 52 amended**

In regulation 52(c) delete "parent or guardian" and insert:

person with parental responsibility for the applicant

**14. Regulation 58 amended**

In regulation 58(2)(b) delete “parent or guardian” and insert:

person with parental responsibility for the person

**15. Regulation 66 amended**

In regulation 66 delete “3 years” and insert:

5 years

**16. Regulation 86 amended**

(1) In regulation 86(1):

(a) delete paragraph (b) and insert:

(b) if relevant, each application for an order to dispense with a requirement for a person’s consent to the child’s adoption; and

(b) delete paragraph (f) and insert:

(f) that portion of any document naming the birth parent of the adoptee.

(2) Delete regulation 86(2) and insert:

(2) For the purposes of subregulation (1), if the adoption was conducted under the *Adoption of Children Act 1896*, a reference in that subregulation —

(a) to an adoption order is to be taken to be a reference to an order of adoption within the meaning of that Act; and

(b) to an order to dispense with a requirement for a person’s consent to the child’s adoption is to be taken to be a reference to an Application to Dispense with Consent(s) being Form 4 in the Second Schedule to the *Adoption of Children Rules 1970*.

(3) In regulation 86(1) after each of paragraphs (a), (b), (c) and (d) insert:

and

**17. Various references to “Director-General” amended**

In the provisions listed in the Table delete “Director-General” (each occurrence) and insert:

CEO

**Table**

|                                       |                                   |
|---------------------------------------|-----------------------------------|
| r. 6(1) and (2)                       | r. 6A                             |
| r. 10A                                | r. 21                             |
| r. 22                                 | r. 22A                            |
| r. 22B(1), (3), (4) and (5)           | r. 23(1) and (2)                  |
| r. 23J(1) and (2)                     | r. 23Q                            |
| r. 23R                                | r. 23S(1) and (2)                 |
| r. 29(1), (2) and (4)                 | r. 35                             |
| r. 37(1), (2) and (3)                 | r. 38(1), (2), (3)(b)(i), and (4) |
| r. 40                                 | r. 42                             |
| r. 45                                 | r. 46(1) and (2)                  |
| r. 47(1) and (2)                      | r. 48                             |
| r. 49                                 | r. 51                             |
| r. 52                                 | r. 53                             |
| r. 54                                 | r. 55(1), (2), (3) and (4)        |
| r. 56                                 | r. 58(1) and (2)                  |
| r. 59 def. of <i>code of practice</i> | r. 60(1)                          |
| r. 61                                 | r. 62                             |
| r. 63(1)                              | r. 64                             |
| r. 65                                 | r. 66                             |
| r. 69                                 | r. 70(1), (2) and (3)             |
| r. 71                                 | r. 72(1) and (2)                  |
| r. 73(1) and (2)                      | r. 74                             |
| r. 75                                 | r. 76                             |

|          |          |
|----------|----------|
| r. 77(1) | r. 80(1) |
| r. 84    | r. 85    |
| r. 88(1) | r. 90    |

Note: The headings to the amended regulations listed in the Table are to be read as set out in the Table.

Table

| Amended regulation | Regulation heading                         |
|--------------------|--|
| r. 54              | Information to be provided by CEO          |
| r. 55              | Notifications by CEO                       |
| r. 74              | CEO to investigate if information received |

By Command of the Governor,

N. HAGLEY, Clerk of the Executive Council.

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