

**Reprint
as at 19 August 2013**



Adoption Regulations 1959
(SR 1959/109)

Cobham, Governor-General

Order in Council

At the Government House at Wellington this 8th day of July 1959

Present:

His Excellency the Governor-General in Council

Pursuant to the Adoption Act 1955, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

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Regulations

1 Title and commencement

- (1) These regulations may be cited as the Adoption Regulations 1959.
- (2) These regulations shall come into force on the 14th day after the date of their notification in the *Gazette*.

2 Interpretation

In these regulations, unless the context otherwise requires,—
applicants includes a sole applicant
court means a District Court.

Regulation 2 **court**: amended, on 21 October 2002, by regulation 3 of the Adoption Amendment Regulations 2002 (SR 2002/252).

3 Application

These regulations apply only to applications made to a District Court, but do not apply to the following applications (to which the Family Courts Rules 2002 apply):

- (a) applications made to a Family Court; and
- (b) applications made to a District Court acting under section 15 of the Family Courts Act 1980.

Regulation 3: replaced, on 21 October 2002, by regulation 4 of the Adoption Amendment Regulations 2002 (SR 2002/252).

4 Records

- (1) The Registrar of every court shall keep an adoptions register in which shall be entered a record of all applications made in that court under the Adoption Act 1955 and a minute of all decisions given and all orders made or issued in consequence of any such application.
- (2) A minute of any decision given or of the making or issuing of any such order shall also be made on the relative file and shall be signed by the Judge or Registrar by whom the decision was given or the order was made or issued.

Regulation 4(1): amended, on 21 October 2002, by regulation 5(1) of the Adoption Amendment Regulations 2002 (SR 2002/252).

Regulation 4(2): amended, on 21 October 2002, by regulation 5(2) of the Adoption Amendment Regulations 2002 (SR 2002/252).

5

- (1) The Minister of Justice may from time to time direct in writing that any specified adoption records in any court or courts shall be transferred for custody to the office of the Registrar-General appointed under the Births, Deaths, Marriages, and Relationships Registration Act 1995; and the person having the custody of any such specified records shall upon receipt of the direction forthwith deliver the records to the said Registrar-General.
- (2) The said Registrar-General shall be deemed to be the officer having the proper custody of any records entrusted to him in pursuance of any such direction.

Regulation 5(1): amended, on 24 January 2009, by section 49(2) of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

6 Application for adoption order

Every application for an adoption order shall be in form 1 of the Schedule. Where the child is not named in the application, evidence shall be furnished at or before the hearing of the identity of the child in respect of whom the application is made.

7 Report as to character of applicants

Before furnishing the report required under section 10(1) of the Adoption Act 1955, a social worker shall make inquiries

of the Police as to whether anything is known to them about the character of the applicants, and shall make known to the court the result of his inquiries.

Regulation 7: amended, on 1 April 1972, pursuant to section 30(d) of the Department of Social Welfare Act 1971 (1971 No 60).

8 Affidavit by applicants

- (1) At any time before the date of hearing of an application for an adoption order there shall be filed in the court an affidavit by the applicants—
 - (a) stating their ages:
 - (b) giving information as to their state of health:
 - (c) giving particulars of their financial circumstances:
 - (d) stating the sex, age, and state of health of any child of the applicants or either applicant:
 - (e) giving the reasons for wanting to adopt the child:
 - (f) stating the period (if any) that the child has been living with the applicants or either applicant:
 - (g) stating that, with the exception of any payment or reward for which the court's consent has been obtained or is being asked or any payment to which, by virtue of the proviso to section 25 of the Adoption Act 1955, that section does not apply, no payment or reward in consideration of the adoption or of the making of arrangements for the adoption has been or is to be made to or by the applicants or either of them or (to the knowledge of the applicants or either of the applicants) to or by any other person:
 - (h) containing a statement or undertaking, as the case may be, in relation to any religious condition imposed by any parent or guardian under subsection (4) or subsection (6) of section 7 of the Adoption Act 1955:
 - (i) if either applicant is a parent of the child, stating that fact:
 - (j) stating whether the applicants or either of them has ever been refused an order on an application for adoption.
- (2) Before the hearing of the application the following documents shall be lodged in the court:

- (a) a certified copy of the entry in the register of births relating to the child proposed to be adopted, which copy shall be annexed to either parent's consent if such a consent is given, and otherwise shall be verified by the affidavit of some person who has knowledge of the facts:
- (b) where there are 2 applicants, a certified copy of the entry relating to their marriage:

provided that the production of either the birth certificate or the marriage certificate or both of them may be excused by the court if in its opinion there are sufficient grounds for doing so.

9 Consent to adoption

- (1) Except where it is given by the Director-General of Social Welfare, the consent of every parent or guardian of the child proposed to be adopted shall be in form 2 or form 3 of the Schedule. Where the consent is given in form 3 and does not give the court number of the application, evidence shall be furnished at or before the hearing identifying the applicants as the persons to whose adoption of the child the consent has been given.
- (2) A consent required by the Act shall not be witnessed by the solicitor acting for the applicants.

Regulation 9(1): amended, on 1 April 1972, pursuant to section 30(c) of the Department of Social Welfare Act 1971 (1971 No 60).

10 Attendance of parties

Unless the court directs otherwise, the applicants and the child proposed to be adopted shall attend personally before the court at any hearing of the application for adoption or at any hearing by the court of the application for the issue of an adoption order.

11 Notice of making of interim order

On the making of an interim order the Registrar shall send to the applicants a notice in form 4 of the Schedule; and shall give written notification to the social worker of the particulars of the order.

Regulation 11: amended, on 1 April 1972, pursuant to section 30(d) of the Department of Social Welfare Act 1971 (1971 No 60).

12 Application for issue of adoption order

Every application for the issue of an adoption order shall be in form 5 of the Schedule.

13 Adoption order

- (1) On an adoption order being issued or made the Registrar shall send to the applicants or their solicitor notice of the issue or making thereof in form 6 of the Schedule.
- (2) An adoption order shall be drawn up in form 7 or form 8 of the Schedule. The order shall be filed in the court, and no copy shall issue out of the court except by order of the court or of the High Court made on special grounds. Notice of the making or issue of the adoption order shall be given to the social worker.

Regulation 13(2): amended, on 1 January 2004, by section 48(3) of the Supreme Court Act 2003 (2003 No 53).

Regulation 13(2): amended, on 1 April 1972, pursuant to section 30(d) of the Department of Social Welfare Act 1971 (1971 No 60).

14 Application for variation or discharge of adoption order

A copy of any application for variation or discharge of an adoption order shall be served on such persons as the court directs.

15 Fee

[Revoked]

Regulation 15: revoked, on 1 July 2004, by regulation 3 of the Adoption Amendment Regulations 2004 (SR 2004/161).

16 Forms

Where any form in the Schedule is prescribed or authorised to be used, such variations may be made therein as the circumstances of any particular case may require.

17 Revocations and savings

- (1) The Adoption Regulations 1956 (SR 1956/169) are hereby revoked.
- (2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by these regulations shall not affect any document made

or any thing whatsoever done under the provision so revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the revocation and could have been made or done under these regulations, shall continue and have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the document was made or the thing was done.

Schedule Forms

Form 1

r 6

Application for an adoption order

In the District Court at *[place]*

Adoption No: *[specify]*

In the matter of the Adoption Act 1955

and

In the matter of an application by *[name(s)]* to adopt a child

1 We/I*, *[full name(s), address, occupation]*, will apply to the District Court at *[place, date, time]* to adopt *[full name]*†, a *[sex]* child, born at *[place, date]*.

*Select one.

†Name may be omitted if applicants wish.

2 We/I* desire that on the making of the adoption order the names of the child will be *[full name]*.

*Select one.

3 The following information is submitted for the purposes of re-registration of the birth:*

Name applicant is known by: Name on applicant's birth certificate (if different): Age of applicant at date of child's birth: Birthplace of applicant:	Name applicant is known by: Name on applicant's birth certificate (if different): Age of applicant at date of child's birth: Birthplace of applicant:
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*Complete both columns if more than 1 applicant.

Form 1—*continued*

- 4 We/I* do/do not* desire that the words “adoptive parent(s)” appear on the face of any certified copy of the entry of birth of the child after the birth has been re-registered.

*Select one.

Signed at [*place*] on [*date*]

Signature of applicant:

Signature of applicant:

Schedule form 1: replaced, on 19 August 2013, by regulation 4 of the Adoption Amendment Regulations 2013 (SR 2013/298).

Form 2
Consent to adoption order
(General form)

r 9

In the District Court held at *[place]*

Adoption No: *[specify]*

In the matter of the Adoption Act 1955:

and

In the matter of an application to adopt *[name]*.

(We) (I), *[full name or names]*, of *[address, occupation]*, the parents (or the mother or the father or the guardian) of *[full name]*, a *[sex]* child, born at *[place]* on *[date]*, hereby consent to an order being made for the adoption of the said child by *[full name]*, of *[address, occupation]*, *and *[full name]*, his or her spouse.

[Where appropriate in accordance with regulation 8(2)(a) of the Adoption Regulations 1959 add] A copy of the entry in the register of births relating to the said child is hereunto annexed.

We/I have read the explanation set out below of the effect of an order.

Signed by the said <i>[name]</i> on <i>[date]</i> , in the presence of†—	<i>[Signature]</i>
---	--------------------

AB
[Occupation and address]

Signed by the said <i>[name]</i> on <i>[date]</i> , in the presence of†—	<i>[Signature]</i>
---	--------------------

AB
[Occupation and address]

*Delete if inapplicable.

†Witness must be one of the persons specified in section 7(8) of the Adoption Act 1955, but not the solicitor acting for the applicants. See regulation 9(2) of the Adoption Regulations 1959.

Effect of adoption order

Upon the making of an adoption order—

- (a) the child is deemed for all purposes and as regards all relationships to become a child of the adoptive parents:

Form 2—*continued*

- (b) rights of guardianship and existing relationships in respect of the child cease except for the very special purpose of determining forbidden relationships in connection with marriage and with the crime of incest:
- (c) rights in respect of property and succession to property are determined according to the relationships created by the adoption, but property rights acquired before the adoption are not affected:
- (d) any paternity order or maintenance order or agreement which provides for maintenance of the child, if made before the adoption order, ceases to have any effect except as to arrears owing and except where the child is adopted by the mother or by the mother and her spouse:
provided that, where the child is adopted by the mother or by the mother and her spouse, the adoption does not prevent the making of any paternity order or maintenance order which could previously have been made or prevent the mother from making an application for a paternity order or a maintenance order:
- (e) the domicile of the child is changed to that of the adoptive parents, but the child's race and nationality are not affected:
- (f) the child is deemed to be a New Zealand citizen by birth if at least one of the adoptive parents is a New Zealand citizen.

Certificate by witness

I hereby certify that before the said [*name(s)*] signed the foregoing consent I fully explained to him (*or her or them*) the effect of the making of an adoption order as set out in the Adoption Act 1955, and that he (*or she or they*) appeared fully to understand the same.

Signature:

Schedule form 2: amended, on 19 August 2013, by regulation 5(1) of the Adoption Amendment Regulations 2013 (SR 2013/298).

Schedule form 2: amended, on 19 August 2013, by regulation 5(2) of the Adoption Amendment Regulations 2013 (SR 2013/298).

Form 2—*continued*

Schedule form 2: amended, on 21 October 2002, by regulation 6(a) of the Adoption Amendment Regulations 2002 (SR 2002/252).

Schedule form 2: amended, on 21 October 2002, by regulation 6(b) of the Adoption Amendment Regulations 2002 (SR 2002/252).

Schedule form 2: amended, on 15 May 1980, by regulation 2(1)(a) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Schedule form 2: amended, on 15 May 1980, by regulation 2(1)(b) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Schedule form 2: amended, on 15 May 1980, by regulation 2(1)(c) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Schedule form 2: amended, on 15 May 1980, by regulation 2(2) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Form 3
Consent to adoption order
(Where identity of applicants is not known)
(Title as in form 2)

r 9

(We) (I), [*full name or names*], of [*address, occupation*], the parents (*or* the mother *or* the father *or* the guardian) of [*full name*], a [*sex*] child, born at [*place*] on [*date*], hereby consent to an order being made for the adoption of the said child by the applicant or applicants named in Application No [*specify*], (*or* the person(s) who are (*or* is) entitled to receive the said child for adoption in accordance with an approval which was given on [*date*] by [*name*], a social worker), *subject to the following conditions with respect to the religious denomination and practice of the applicants or any applicant or as to the religious denomination in which the applicant or applicants intend to bring up the child:

[*Where appropriate in accordance with regulation 8(2)(a) of the Adoption Regulations 1959 add*] A copy of the entry in the register of births relating to the said child is hereunto annexed.

We/I have read the explanation set out below of the effect of an order.

Signed by the said [<i>name</i>] on [<i>date</i>], in the presence of†—		[<i>Signature</i>]
--	--	----------------------

AB
[*Occupation and address*]

Signed by the said [<i>name</i>] on [<i>date</i>], in the presence of†—		[<i>Signature</i>]
--	--	----------------------

AB
[*Occupation and address*]

*Delete reference to religious condition if inapplicable.

†Witness must be one of the persons specified in section 7(8) of the Adoption Act 1955, but not the solicitor acting for the applicants. *See* regulation 9(2) of the Adoption Regulations 1959.

Form 3—*continued**Effect of adoption order*

Upon the making of an adoption order—

- (a) the child is deemed for all purposes and as regards all relationships to become a child of the adoptive parents:
- (b) rights of guardianship and existing relationships in respect of the child cease except for the very special purpose of determining forbidden relationships in connection with marriage and with the crime of incest:
- (c) rights in respect of property and succession to property are determined according to the relationships created by the adoption, but property rights acquired before the adoption are not affected:
- (d) any paternity order or maintenance order or agreement which provides for maintenance of the child, if made before the adoption order, ceases to have any effect except as to arrears owing and except where the child is adopted by the mother or by the mother and her spouse:
provided that, where the child is adopted by the mother or by the mother and her spouse, the adoption does not prevent the making of any paternity order or maintenance order which could previously have been made or prevent the mother from making an application for a paternity order or a maintenance order:
- (e) the domicile of the child is changed to that of the adoptive parents, but the child's race and nationality are not affected:
- (f) the child is deemed to be a New Zealand citizen by birth if at least one of the adoptive parents is a New Zealand citizen.

Certificate by witness

I hereby certify that before the said [*name*] signed the foregoing consent I fully explained to him (*or her or them*) the effect of the making of an adoption order as set out in the Adoption Act 1955, and that he (*or she or they*) appeared fully to understand the same.

Signature:

Form 3—*continued*

Schedule form 3: amended, on 19 August 2013, by regulation 6 of the Adoption Amendment Regulations 2013 (SR 2013/298).

Schedule form 3: amended, on 21 October 2002, by regulation 6(c) of the Adoption Amendment Regulations 2002 (SR 2002/252).

Schedule form 3: amended, on 21 October 2002, by regulation 6(d) of the Adoption Amendment Regulations 2002 (SR 2002/252).

Schedule form 3: amended, on 15 May 1980, by regulation 3(1)(a) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Schedule form 3: amended, on 15 May 1980, by regulation 3(1)(b) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Schedule form 3: amended, on 15 May 1980, by regulation 3(1)(c) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Schedule form 3: amended, on 15 May 1980, by regulation 3(2) of the Adoption Regulations 1959, Amendment No 2 (SR 1980/93).

Schedule form 3: amended, on 1 April 1972, pursuant to section 30(d) of the Department of Social Welfare Act 1971 (1971 No 60).

Form 4
Notice of interim order
(Title as in form 1)

r 11

To [full name], of [address], †and [full name], his or her spouse.

†Delete if inapplicable.

On [date] the court made an order in relation to your application to adopt a child. The order was an interim order only as required by the Adoption Act 1955, and while it remains in force the following conditions apply:

- (a) you are entitled to the custody of the child *on the following terms: [specify]
- (b) any social worker may, at all reasonable times, visit and enter the residence in which the child is living:
- (c) the child is not to be taken out of New Zealand without leave of the court:
- (d) you must give to a social worker at least 7 days' notice before changing your residence:
provided that where an emergency makes any immediate change necessary it will be sufficient if you give notice within 48 hours after leaving your previous residence.

The interim order is not an adoption order. An adoption order cannot be obtained until after a further application has been made to the court after an interval of [specify]. The application to the court for the issue of the adoption order may be made after [date] *if the child has then been continuously in your care for not less than [specify] since the date on which the interim order was made or since such earlier date (if any) as the placing or receiving or keeping of the child in your home for the purpose of adoption was approved by a social worker.

The application to the court for the adoption order must be made before [date]. The interim order will lapse on that date. If you do not apply in time you may lose the custody of the child.

Signature:
(Registrar)

*Delete if inapplicable.

Form 4—*continued*

Schedule form 4: amended, on 19 August 2013, by regulation 7 of the Adoption Amendment Regulations 2013 (SR 2013/298).

Schedule form 4: amended, on 1 April 1972, pursuant to section 30(d) of the Department of Social Welfare Act 1971 (1971 No 60).

Form 5

r 12

Application for the issue of an adoption order
after an interim order has been made

(Title as in form 1)

The applicants hereby apply for the issue of an adoption order and state as follows:

- (1) The interim order is in force and has continued in force for not less than [*set out the prescribed period fixed by or in accordance with section 13 of the Adoption Act 1955*].
- (2) [*Where the child is under the age of 15 years state facts to show that paragraph (b) of section 13(1) of the Adoption Act 1955 has been complied with.*]

Dated at: [*place*] on [*date*]

Signatures:

To the Registrar,
District Court,
[*Place*]

Schedule form 5: amended, on 21 October 2002, by regulation 6(e) of the Adoption Amendment Regulations 2002 (SR 2002/252).

Form 6
Notice of adoption order
(Title as in form 1)

r 13(1)

To [*specify*]

An adoption order was issued [*or made*] in respect of [*name of child following adoption*] on [*date*].

Signature:
(Registrar)

Form 7
Adoption order
(Where issued by Registrar)
(Title as in form 1)

r 13(2)

Whereas on the application of [*name, address, and occupation*], *and [*name*], his or her spouse, an interim order was made by [*name*], District Court Judge, for the adoption of [*full name*], a [*sex*] child, born at [*place*] on [*date*], and the order specified that after the adoption order the child's name would be [*specify*].

Now it is ordered that the said [*specify*] be and he/she is hereby adopted by the said [*specify*] and shall henceforth bear the name of [*specify*].

Dated at: [*place*] on [*date*]

[Seal]

Signature:
(Registrar)

*Delete if inapplicable.

Schedule form 7: amended, on 19 August 2013, by regulation 8 of the Adoption Amendment Regulations 2013 (SR 2013/298).

Schedule form 7: amended, on 21 October 2002, by regulation 6(f) of the Adoption Amendment Regulations 2002 (SR 2002/252).

Form 8

r 13(2)

Adoption order

(Where dealt with finally by the court)

(Title as in form 1)

Upon the application of [*name, address, and occupation*], *and [*name*], his or her spouse, it is ordered by [*name*], District Court Judge, that [*full name*], a [*sex*] child, born at [*place*] on [*date*], be and he/she is hereby adopted by the said [*name*] and shall henceforth bear the name of [*name*].

Dated at: [*place*] on [*date*]

[Seal]

Signature:
(Registrar)

*Delete if inapplicable.

Schedule form 8: amended, on 19 August 2013, by regulation 9 of the Adoption Amendment Regulations 2013 (SR 2013/298).

Schedule form 8: amended, on 21 October 2002, by regulation 6(f) of the Adoption Amendment Regulations 2002 (SR 2002/252).

T J Sherrard,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 9 July 1959.

Reprints notes

1 *General*

This is a reprint of the Adoption Regulations 1959 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Adoption Amendment Regulations 2013 (SR 2013/298)
Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 49(2)
Adoption Amendment Regulations 2004 (SR 2004/161)
Supreme Court Act 2003 (2003 No 53): section 48(3)
Adoption Amendment Regulations 2002 (SR 2002/252)
Adoption Regulations 1959, Amendment No 2 (SR 1980/93)
Department of Social Welfare Act 1971 (1971 No 60): section 30(c), (d)
