**ADOPTION HEARING AIDE-MEMOIRE**

Pursuant to Practice Direction 32.3

Case No:

IN THE LOCAL COURT

AT

**IN THE MATTER** of an unnamed child

**And**

**IN THE MATTER** of the *Adoption of Children Act 1994*

**BETWEEN:**

Applicant

**AND**

**Minister for Territory Families**

Respondent

|  |  |  |
| --- | --- | --- |
| **Particulars of child** | | |
| Full name of child before adoption | |  |
| Sex of child | |  |
| Date and time of birth | |  |
| Place of birth | |  |
| Whether the child's birth is a multiple birth and if so, the numerical order in which the child was born | |  |
| Weight of child at birth | |  |
| Birth parent 1's full name at date of adoption | |  |
| Birth parent 1's previous surname(s) | |  |
| Birth parent 2's full name at date of adoption | |  |
| Birth parent 2's previous surname(s) | |  |
| **Particulars of adoptive parent one** | | |
| Full name | |  |
| Previous surname(s) | |  |
| Occupation | |  |
| Usual place of residence | |  |
| Date of birth | |  |
| Place of birth | |  |
| Age at date of birth of adopted child | |  |
| If the adoptive parent has had other children – the full name, sex and date of birth of each of them (including adopted children and deceased children) and whether the child arose from a current relationship | |  |
| **Particulars of adoptive parent two** | | |
| Full name | |  |
| Previous surname(s) | |  |
| Occupation | |  |
| Usual place of residence | |  |
| Date of birth | |  |
| Place of birth | |  |
| Age at date of birth of adopted child | |  |
| If the adoptive parent has had other children – the full name, sex and date of birth of each of them (including adopted children and deceased children) and whether the child arose from a current relationship | |  |
| **Other particulars** | | |
| Whether or not the child or a birth parent or adoptive parent of the child is of Australian Aboriginal or Torres Strait Islander origin | |  |
| Whether the adoptive parents of the child are residents of the Territory and have been residing in the Territory for a continuous period of at least 6 months | |  |
| Whether or not the child is a resident of the Territory | |  |
| Whether the birth of the child has been registered in the Register of Births of a State or another Territory | |  |
| If the adoptive parents of the child are married or in a traditional Aboriginal marriage, place and date of marriage or traditional Aboriginal marriage | |  |
| If the adoptive parents of the child are in a de facto relationship, the date of commencement of the relationship | |  |
| Full name, sex and date of birth of each of the other children (including adopted children and deceased children) arising from the relationship between the adoptive parents of the child | |  |
| Full name, sex and date of birth of each of the other adopted children (including deceased children) of the adoptive parent of the child if the child only has one adoptive parent | |  |
| Full name, occupation, usual place of residence and relationship (if any) to the child, of the person furnishing the particulars in this form | |  |
| Full name of the doctor, midwife or health worker responsible for the professional care of the birth parent who gave birth to the child at the birth, and other persons present at the birth | |  |
|  | |  |
| **Pre-action notice to parties** | | |
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| **Section** | **Requirement** | **Comment** |
| 38 | An applicant requires written notice under 18(4) or 21(1) from the Minister confirming suitability to Adopt before an application is made |  |
| 39(1) | Aa applicant must give the Minister notice of the intention to make an application not less than 21 days prior to lodging the application |  |
| 39(2) | Within 7 days of receipt of the 39(1) notice, the Minister must give notice to required persons |  |
| 39(2) | Persons given notice under 39(2) have 7 days to advise the Minister of their wish to become a party to proceedings |  |
| 39(3) | Within 7 days of receipt of any 39(2) response, the Minister must notify the applicants of any persons wishing to be a party |  |
| **Eligibility to bring application** | | |
| 6(1)(a) | At the time of filing the application each of the applicants was resident or domiciled in the Northern Territory |  |
| 6(1)(b) | At the time of filing the application the child was present in the Northern Territory |  |
| 12(1) | The child has either not attained the age of 18 years or has been brought up by the applicant/s as their child |  |
| 12(2) | The child has not been married or lived in a de facto relationship |  |
| 13(1) | If an adoption order is sought is favour of two persons - the applicants must have been in a marriage like relationship for not less than 2 years |  |
| 13(2) | If an adoption order is sought is favour of two persons - neither applicant can be a parent of the child |  |
| 14 | If an adoption order is sought is favour of one person – the child must be under the guardianship of the Minister and the Minister is of the opinion that exceptional circumstances exist to warrant the adoption |  |
| 15 (2) | For an adoption by relative or spouse of relative, it must be a joint application if the relative or spouse of relative have a current spouse |  |
| 15 (3)(a) & (c) | For an adoption by step-parent, relative or spouse of relative, the Court must be satisfied that an order under the *Family Law Act 1975* would not make adequate provision for the welfare and interests of the child and an order for adoption would make better provision |  |
| 15 (3)(b) | For an adoption by step-parent, relative or spouse of relative, the Court must be satisfied that in the opinion of the Minister, exceptional circumstances exist which make the adoption desirable |  |
| 16(1)(a) | The applicant/s have attained the age of 25, or the Minister has found exceptional circumstances under 16(4) |  |
| 16(1)(b) | The applicant/s are not less than 25 years older than the child, or the Minister has found exceptional circumstances under 16(4) |  |
| 16(2) | If the child is the first child of the applicants then neither applicant can be more than 40 years older than the child, unless the Minister has found exceptional circumstances under 16(4) |  |
| 16(3) | If the applicant/s have care and custody of another child, then neither applicant is to be more than 45 years older than the child, unless the Minister has found exceptional circumstances under 16(4) |  |
| **Consent** | | |
| 26 | For citizen child – Consent required from parent/s and guardian/s in accordance with s.27, 28, 30, 31 and 32 |  |
| 29 | In respect to a non-citizen child the Minister has consented to the adoption by way of a written declaration |  |
| 10(2) | Where the child has attained the age of 12, the child must consent to the adoption, unless the Court is satisfied there are special reasons related to the welfare and interest of the child as to why the order should be made |  |
| 10(3) | Where the child has attained the age of 18, the child must consent to the adoption |  |
| **Matters the Court must be satisfied of** | | |
| 39(5) | Notice of the application has been given to all persons who the Court thinks necessary |  |
| 40(2) | The Court does not consider it necessary to join any person as a party |  |
| 8(1), 41(1)(a) | The adoption will promote the welfare and interest of the child, with consideration to be given to, inter alia, the matters set out in Schedule 1 and 11(2) |  |
| 41(1) | If the child is under 18, a report in writing from the Minister must be filed with the Court concerning the proposed adoption |  |
| 41(1)(b) & 41(2)(a) | The applicants are suitable to adopt the child |  |
| 41(1)(b) & 41(2)(a) | The applicants satisfy the requirements of the Act |  |
| 41(1)(c) | If the child is under 18, the Minister has ascertained and taken into account the wishes, if any, of a parent of the child |  |
| 41(2) | If the child is over 18, exceptional circumstances make it desirable that the child should be adopted |  |
| 10(1) | The Court is satisfied that as far as practicable having regard to the age and understanding of the child the wishes and feelings of the child have been ascertained and due consideration given to them |  |
| 11(1) | Where the child is Aboriginal, every effort has been made to arrange custody with the child’s extended family or with other appropriate Aboriginal people |  |

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Counsel for Applicant/s

Name:

Dated: