

Court

After the Section 19 Report is finished by the Adoptions Unit, the applicant's solicitor should apply for a court date and then notify the Adoptions Unit. The applicant, the continuing parent and the child/children will be required to appear before the judge for the making of the Adoption Order.

Alternatives to adoption

Family Court Orders

In many instances a particular kind of Order is sufficient to formalise the relationship with the step-child. To apply for one of these Orders, the applicant or a solicitor, needs to prepare an application to the Family Court.

As the Family Court is a federal court, the Adoptions Unit has no further involvement.

Change of name by Deed Poll

This is a process by which a person can acquire a different name without changing any aspects of his/her legal status. It does not alter the original birth certificate but makes the new name the legal name.

Both legal parents need to agree in order to change the name of a child under the age of 16. The ACT Registry of Births, Deaths and Marriages can assist with a Change of Name application.

Take no legal action

It's important to consider the circumstances and the needs of the child/children carefully before embarking on any legal action.



More information?

Contact the Adoptions and Permanent Care Unit

phone: 6207 1335

fax: 6207 8888

email: adoptions@act.gov.au

www.dhcs.act.gov.au

stepchildren and adoption



children, youth
& family support | ACT

community partners

There are many different reasons why people seek step-parent adoption orders. Sometimes an order is sought to legalise a de-facto parental relationship between step-parent and child, or to ensure continuity of care for the child/children should anything happen to the legal parent. Sometimes it is hoped that adoption will make the child/children feel more secure.

Applicants need to think carefully about why they are seeking a step-parent adoption order. Many children live happily in blended families without changing their legal status. A step-parent adoption is usually only appropriate when a child has lived, almost exclusively, for most of his/her life as the child of the step-parent. There should be strong bonding and attachment between the child and the step-parent before adoption is considered.

Effects of an adoption order

- The step-parent becomes a legal parent with their spouse/partner.
- The child receives a new birth certificate, which contains the step-parent's name and that of their spouse/partner. This birth certificate is then the only one able to be used for all legal purposes for the rest of the child's life (unless another adoption occurs).
- The adopted child has the usual natural rights to inherit from their adopted parent's estate.

In the event of relationship discord between a parent and an adopted child, the adoptive parent has the usual parenting rights and responsibilities in relation to their adopted child.

Requirements for step-parent adoption

Before applying to the ACT Supreme Court for an adoption under *The ACT Adoption Act 1993*, the following requirements must be met:

Residence

Both the applicant (the step-parent) and the child/children to be adopted must be resident in the Australian Capital Territory at the time of application. It is not necessary to be an Australian Citizen.

Relationship

The applicant and the birth parent must have been married and/or in a stable domestic relationship for a continuing period of at least three years.

Consents

The continuing birth parent must specifically give consent for the applicant to adopt the birth parent's children. The consent does not affect the parental rights of the spouse/partner.

Please note: If there is another legal parent, he or she must give consent specifically for the applicant to adopt his/her children. The following people are recognised in the ACT as a parent and so their consent must be obtained:

- A person whose name is on the child's birth certificate
- A man who was cohabitating with the mother at the time of the birth
- A man who had been cohabitating with the mother at the time of conception
- A man named in a Family Court Order as the father
- A man sworn to be the father in a statutory declaration
- A man whose paternity has been proved by medical testing.

By giving consent to the adoption of his/her child, the non-continuing parent relinquishes all rights and responsibilities towards the child. This is more complicated if there are pre-existing Family Court Orders and additional orders may need to be obtained prior to the adoption application.

If a legal parent does not wish to give consent to the adoption then Dispensation of Consent must be sought through an application to the ACT Supreme Court.

There are various grounds for dispensation. It is up to the Court to decide whether the dispensation should be granted and whether to grant an adoption order. It is unlikely that an adoption order will be made if a legal parent who has contact with the child, opposes the adoption and refuses to give consent.

Adoptions Unit Report

The applicant and their spouse/partner must apply to the Adoptions Unit to be assessed so that a report can be prepared. The assessment includes detailed interviews of the whole family and a police and medical check of the applicant.

It is usual to interview the child/children to be adopted. The relinquishing parent is also contacted, if possible. *The Adoption Act 1993* requires that the Adoption Unit comments on the suitability of any adoption applicant to be adoptive parent and whether the adoption will be in the best interests of the child.

The Adoptions Unit charges a fee for the assessment report.

The adoption process

Assessment

The applicant needs to obtain a step-parent adoption application form and other documents from the Adoptions Unit. When they are completed a social worker will commence the assessment.

Legal

The applicant will need to contact a solicitor. The Law Society of the ACT can provide names of solicitors experienced in adoption. The solicitor will prepare the court documents. Sometimes the applicant may be able to prepare the documents by following the advice of the Deputy Registrar at the ACT Supreme Court.