

Discharge of Adoption Order Fact Sheet

Information for people considering having their adoption order discharged

Key information

- A discharge of adoption order refers to the legal undoing of an adoption order.
- The legal requirements and process for having an adoption order discharged are outlined below.
- Only an “eligible person” can apply to have an adoption order discharged.
- There are no fees to have an adoption order discharged.
- Speak with Adoptions and Permanency Services by phone on 03) 6166 0422 or by email on adoption.service@decyp.tas.gov.au.

What is a discharge of adoption

A discharge of an adoption order is a legal mechanism for undoing a finalised adoption. This reverses the adoption so that the adopted person regains their original birth status.

Legal requirements

An ‘eligible person’ may apply to have an adoption order discharged. An eligible person means the adoptee to whom the order relates, a natural parent of the adopted person, an adoptive parent of the adopted person, the Secretary or the principal officer of an approved agency by which the adoption was arranged.

The *Adoption Act 1988* states: *An eligible person may apply to the court for an order discharging an adoption order on the grounds:*

- *That the adoption order or a consent for the purposes of the adoption order was obtained by fraud, duress, or other improper means; or*
- *That special circumstances exist in relation to the welfare and interests of the person why the adoption order should be discharged.*

Special circumstances include an irretrievable breakdown of the relationship between the adoptive parents and the adopted person.

Process

We encourage you to contact Adoption and Permanency Services (APS) and speak with an Adoption Officer. We will gather some basic information to determine your eligibility.

If it appears you are eligible, you will need to provide the following:

- A completed application form
- A certified copy of your birth certificate
- A certified copy of your driver's licence
- An affidavit*, or a signed letter addressed to "The Presiding Magistrate": which includes:
 - your full name
 - your date of birth
 - who you were adopted by
 - when you were adopted
 - the breakdown that has occurred or why you believe the adoption was obtained by fraud, duress or other improper means
 - anything else you wish the Magistrate to know about the impact of the adoption
 - your request that your adoption order be discharged.

**An affidavit is a written statement, written under oath, for use as evidence in court.*

You may also wish to meet with APS in person, and this can be arranged if you live in Tasmania. If you live interstate, we can arrange a video link.

We then prepare your request and information for the Manager to approve and ensure you meet the legislative requirements.

Our Service prepares and files a report to the Magistrate with the court. You do not need to attend court, as the Magistrate deals with the request administratively.

The court will inform APS when the adoption has been discharged, and a discharge certificate will be sent to you.

Important things to know

Your name will revert to the name on your pre-adoption birth certificate. If you were not named as an infant, APS will work with you to determine the name you wish to have recorded.

You must retain all your identity documents in case you need to demonstrate how your name has changed.

If you were born in Tasmania, but adopted in another state or territory, you will need to contact that state or territory to confirm your eligibility and pursue a discharge. Not all states and territories can undertake discharges.

Costs

There are no fees for this service.

Contact Details

Adoption and Permanency Services.

In writing: GPO Box 538, Hobart 7001.

By phone: 03) 6166 0422.

By email: adoption.service@decyp.tas.gov.au.