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ADOPTION OF CHILDREN LAW

(2003 Revision)

Law 42 of 1967 consolidated with Laws 14 of 1968, 27 of 1977 (part), 19 of 1991, 14 of 2002 and 16 of 2002.

Revised under the authority of the Law Revision Law (1999 Revision)

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Law 27 of 1977-5th December, 1977
Law 19 of 1991-11th September, 1991
Law 14 of 2002-17th July, 2002
Law 16 of 2002-11th September, 2002.

Consolidated and revised this 6th day of May, 2003.

Note (not forming part of the Law): This revision replaces the 1996 Revision which should now be discarded.

ADOPTION OF CHILDREN LAW

(2003 Revision)

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ADOPTION OF CHILDREN LAW

(2003 Revision)

1. This Law may be cited as the Adoption of Children Law (2003 Revision). Short title

2. In this Law- Definitions

“adopter” means a person who is proposing to adopt, or who has adopted, a child in pursuance of an adoption order;

“adoption order” means an order made under section 9;

“Board” means the Adoption Board established under section 3;

“child” means a person of the age of sixteen years or under;

“Court” means the Grand Court;

“father”, in relation to an illegitimate child, means the natural father;

“Governor” means Governor in Council;

“guardian”, in relation to a child, means a person appointed by deed or will or by a Court of competent jurisdiction to be his guardian;

“Judge” means a Judge of the Grand Court;

“member” means a member of the Board;

“Registrar” means the person having general responsibility for the registration of births in the Islands; and

“relative”, in relation to a child, means a grandparent, brother, sister, aunt or uncle, whether of the full blood or half blood or by affinity, and includes-

- (a) where an adoption order has been made in respect of the child or any other person, any person who would be a relative of the child within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock; or
- (b) where the child is illegitimate, the father of the child and any person who would be a relative of the child within the meaning of this definition if the child were the legitimate child of his father and mother.

Adoption of Children Law (2003 Revision)

- Adoption Board
3. (1) A Board, called the Adoption Board, is established which shall consist of a chairman and not more than five other members to be appointed by the Governor.
 - (2) Each appointment is for a period of two years unless revoked by the Governor.
 - (3) At meetings of the Board from which the chairman is absent the members present shall appoint one of their number to the chair.
 - (4) The quorum of the Board is three.
 - (5) The Governor may appointment any person to act in the place of any member who is absent or unable to act.
 - (6) The Board has power to regulate its own procedure.
 - (7) (a) The Board may, with the approval of the Governor, appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers, agents and servants as it deems necessary for the proper carrying out of this Law.
(b) The expenses of the Board (including the remuneration of its staff) are defrayed out of sums provided for the purpose by the Legislative Assembly.
 - (8) The Board may appear and be represented at any stage of the proceedings in a Court by one of its officers or by any person it authorises in that behalf.
- Restriction on making arrangements for the adoption of children
4. (1) Subject to section 5, whoever takes part in arranging an adoption for gain or reward or in the management or control of a body of persons other than the Board which exists wholly or in part for the purpose of making arrangements for the adoption of children, is guilty of an offence and liable on summary conviction to a fine of four hundred dollars and to imprisonment for six months.
 - (2) A person is deemed to make arrangements for the adoption of a child if he, not being the parent or guardian of the child, enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected or is intended to be effected, in pursuance of an adoption order or otherwise, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement in that behalf, or if he causes another so to do.
- Duties of Board
5. It is the duty of the Board to-

- (a) make arrangements for the adoption of children and for that purpose to receive applications from parents, guardians and adopters; and
- (b) do such things and make such investigations concerning the adoption of children for the consideration of the Court as may be prescribed under section 8.

6. (1) Where arrangements are made by the Board for the adoption of a child, an application to the Court for an adoption order in respect of the child shall not be made by the adopter until the expiration of a period of three months from the date upon which the child is delivered into the care and possession of the adopter pursuant to the arrangements and, at any time during that period-

Arrangements made by
Board

- (a) the adopter may give notice in writing to the Board of his intention not to adopt the child; or
- (b) the Board may cause notice in writing to be given to the adopter of its intention not to allow the child to remain in the care and possession of the adopter,

and where a notice is so given, the adopter shall, within seven days of the date on which the notice was given, cause the child to be returned to the Board for the purpose of restoring the child to the parents or guardian.

(2) The Board shall appoint one or more persons whose duty shall be to keep the child under close supervision during the said period of three months in accordance with the Regulations.

(3) If, at the expiration of the said period of three months, no notice has been given as aforesaid, the adopter shall, within three months from the date upon which that period so expired, apply to the Court for an adoption order in respect of the child or shall give notice in writing to the Board of his intention not to apply for such an order, and, where notice is so given or where an application for an adoption order in respect of the child is refused by the Court, the adopter shall, within seven days of the date on which the notice was given or of the date upon which the application is so refused, as the case may be, cause the child to be returned to the Board for the purpose of restoring the child to the parents or guardian.

(4) Whoever contravenes this section is guilty of an offence and liable, on summary conviction, to a fine of one hundred dollars and to imprisonment for six months, and the Court by which the offender is convicted may order a child in respect of whom the offence is committed to be returned to his parents or guardian or to the Board.

Appeals by persons
desirous of adopting
children

7. Where any person has made representations to the Board with a view to the adoption of a child, and the Board are of the opinion that the adoption of the child by such person would not be in the best interests of the child, the Board shall notify such person accordingly, and such person may appeal from the decision of the Board to a Judge in Chambers.

Regulations

8. (1) The Governor may make regulations-
- (a) regulating the conduct of negotiations entered into by or on behalf of the Board with persons having the care and possession of children who are desirous of causing children to be adopted, and in particular for securing-
 - (i) that, where the parent or guardian of a child proposes to place the child at the disposition of the Board with a view to the child being adopted, he shall be furnished with a memorandum in the prescribed form explaining in ordinary language the effect, in relation to his rights as a parent or guardian, for the making of an adoption order in respect of the child, and calling attention to this Law and of any Rules made hereunder relating to the consent of a parent or guardian to the making of such an order, and
 - (ii) that, before so placing the child at the disposition of the Board, the parent or guardian shall sign a document in the prescribed form verifying that he has read or had read and understood the said memorandum;
 - (b) requiring that the case of every child proposed to be delivered by or on behalf of the Board into the care and possession of an adopter shall be considered by a committee (to be called a “case committee”) comprised of not less than three members of the Board;
 - (c) prescribing, in the case of every such child as aforesaid, the inquiries which must be made and the reports which must be obtained by the Board in relation to the child and the adopter for the purpose of ensuring so far as may be, the suitability of the child and the adopter respectively, and, in particular, for requiring that a report on the health of the child and prospective adopter signed by a duly qualified medical practitioner be obtained by the Board;
 - (d) securing that no such child shall be delivered into the care and possession of an adopter by or on behalf of the Board until the adopter has been interviewed by the case committee or by some person on its behalf, until a representative of the committee has inspected any premises in the Islands in which the adopter

intends that the child should reside permanently, and until the committee has considered the prescribed reports;

- (e) making provision for the care and supervision of children who have been placed by their parents or guardians at the disposition of the Board; and
- (f) generally for carrying out the purposes of this Law.

(2) Whoever contravenes any regulation is guilty of an offence and liable on summary conviction to a fine of fifty dollars and, in the case of a second or subsequent conviction, to a fine of one hundred dollars.

(3) The Regulations in the First Schedule apply until varied by Regulations made under subsection (1).

9. (1) Subject to this Law, the Court may, upon an application made in the prescribed manner by a person domiciled in the Islands, make an order authorising the applicant to adopt a child.

Power to make adoption orders

(2) An adoption order may be made on the joint application of two spouses who, at the date of the application, have been married and living together for no less than three years.

(3) An adoption order may be made authorising the adoption of a child by the mother or father of the child, either alone or jointly.

10. (1) An adoption order shall not be made in respect of a child unless-

Restrictions on making adoption orders

- (a) the applicant, or in the case of a joint application, one of the applicants-
 - (i) has attained the age of twenty-five years but is not over the age of sixty-five years; or
 - (ii) is the mother or father of the child; and
- (b) the child-
 - (i) is born in the Islands;
 - (ii) is the child of a person possessing Caymanian status; or
 - (iii) is, with the permission in writing of the Chief Immigration Officer for the express purposes of the adoption proceedings, resident in the Islands.

(2) An adoption order shall not be made in respect of a child who is a female in favour of a sole applicant who is a male, unless the Court is satisfied that there are special circumstances which justify making such an order.

(3) Except as provided by section 9(2), an adoption order shall not be made authorising more than one person to adopt a child.

- (4) Subject to section 11, an adoption order shall not be made-
 - (a) in any case, except with the consent of every person who is a parent or guardian of the child or who is liable by virtue of any order or agreement to contribute to the maintenance of the child; or
 - (b) on the application of a spouse, except with the consent of the other spouse.

(5) Subject to subsection (6), an adoption order shall not be made unless the applicant and the child reside in the Islands.

(6) An adoption order may be made on the application of a person who, though domiciled in the Islands, is not ordinarily resident in the Islands; so, however, that in relation to such an application this Law shall be modified by the substitution in section 6(1), (2) and (3) of the words “period of six months” for the words “period of three months.”

Consent to adoption

11. (1) The Court may dispense with any consent required by paragraph (a) of section 10(4) if it is satisfied-

- (a) in the case of a parent or guardian of the child, that he has abandoned, neglected or persistently ill-treated the child or has persistently failed without reasonable cause to-
 - (i) discharge the obligations of a parent or guardian of the child; or
 - (ii) demonstrate interest in the child;
- (b) in the case of a person liable by virtue of an order or agreement to contribute to the maintenance of the child, that he has persistently neglected or refused so to contribute; or
- (c) in any case, that the person whose consent is required cannot be found or is incapable of giving his consent or that his consent is unreasonably withheld or for any other reason such consent should be dispensed with.

(2) The Court may dispense with the consent of the spouse of an applicant for an adoption order if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving the consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(3) The consent of any person to the making of an adoption order in pursuance of an application (not being the consent of the child) may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the child is to be brought up) without knowing the identity of

the applicant for the order; and where consent so given by any person is subsequently withdrawn on the ground only that he does not know the identity of the applicant, his consent shall be deemed for the purposes of this section to be unreasonably withheld.

(4) While an application for an adoption order in respect of a child is pending in the Court, a parent or guardian of the child who has signified his consent to the making of an adoption order in pursuance of the application shall not be entitled, except with leave of the Court, to remove the child from the care and possession of the applicant; and in considering whether to grant or refuse such leave the Court shall have regard to the welfare of the child.

12. (1) The Court may, upon an application for an adoption order, postpone the determination of the application and make an interim order giving the custody of the child to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance, education and supervision of the child and otherwise as the Court may think fit. Interim orders

(2) All such consents as are required to an adoption order shall be necessary for an interim order but subject to a like power on the part of the Court to dispense with any such consent.

(3) An interim order is not an adoption order.

13. (1) Where any person whose consent to the making of an adoption order is required by paragraph (a) of section 10(4) does not attend in the proceedings for the purpose of giving it, then, subject to subsection (3) hereof, a document signifying his consent to the making of such an order shall, if the person in whose favour the order is to be made is named in the document or (where the identity of that person is not known to the consenting party) is distinguished therein in the prescribed manner, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings. Evidence of consent of parent or guardian

(2) Where any such document is attested by a Justice of the Peace, the document shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed; and for the purposes of this subsection, a document purporting to be attested as aforesaid shall be deemed to be so attested, and to be executed and attested on the date and at the place specified therein, unless the contrary is proved.

(3) A document signifying the consent of the mother of a child shall not be admissible under this section unless-

- Functions of Court as to adoption orders
- (a) the child is at least six weeks old on the date of the execution of the document; and
 - (b) the document is attested on that date by a Justice of the Peace.
14. (1) The Court, before making an adoption order, shall be satisfied-
- (a) that every person whose consent is necessary not dispensed with, has consented to and understands the nature and effect of the order for which application is made, and in particular in the case of any parent, understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights;
 - (b) that the order if made will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to its age and understanding; and
 - (c) that the applicant has not received or agreed to receive, and that no person has made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the Court may sanction.
- (2) The Court, in an adoption order, may impose such terms and conditions as the Court may think fit, and in particular may require the adopter by bond or otherwise to make for the child such provision, if any, as in the opinion of the Court is just and expedient.

- Rights and duties of parents and capacity to marry
15. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the child in relation to its future custody, maintenance and education, including all rights to appoint a guardian and to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as if the child were a child born to the adopter in lawful wedlock; and in respect of the matters aforesaid the child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.
- (2) In any case where two spouses are the adopters, the spouses shall, in respect of the matters aforesaid, and for the purpose of the jurisdiction of the Court to make orders as to the custody and maintenance of and right of access to children, stand to each other and to the child in the same relation as they would have stood if they had been the lawful father and mother of the child and the child shall stand to them respectively in the same relation as to a lawful father and mother respectively.
- (3) For the purpose of the law relating to marriage, an adopter and the person whom he has been authorised to adopt under an adoption order shall be

deemed to be within the prohibited degrees of consanguinity; and this provision shall continue to have effect notwithstanding that some person other than the adopter is authorised by a subsequent order to adopt the same child.

16. (1) Where an adoption order is made in respect of a child who is illegitimate, then, subject to subsection (2), any affiliation order or decree of affiliation in force with respect to the child, and any agreement whereby the father of the child has undertaken to make payments specifically for the benefit of the child, shall cease to have effect, but without prejudice to recovery of any arrears which are due under the order, decree or agreement at the date of the adoption order. Affiliation orders, etc.

(2) Where a child to whom any such order, decree or agreement as aforesaid relates is adopted by his mother, and the mother is a single woman, the order shall not cease to have effect by virtue of the foregoing subsection upon the making of the adoption order, but shall cease to have effect if she subsequently marries.

17. (1) Where, at any time after the making of an adoption order, the adopter or the adopted person or any other person dies intestate in respect of any real or personal property (other than property subject to an entailed interest under a disposition made before the date of the adoption order), that property shall devolve in all respects as if the adopted person were the child of the adopter born in lawful wedlock and were not the child of any other person. Intestacies, wills and settlements

(2) In any disposition of real or personal property made, whether by instrument *inter vivos* or by will (including codicil), after the date of an adoption order, any reference (whether express or implied)-

- (a) to a child of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to an adopted child;
- (b) to a child of the adopted person's natural parents or either of them shall, unless the contrary intention appears, be construed as not being, or as not including, a reference to the adopted person; and
- (c) to a person related to the adopted person in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him in that degree if he were the child of the adopter born in lawful wedlock and were not the child of any other person.

18. (1) For the purposes of the devolution of any property in accordance with section 17, and for the purposes of the construction of any such disposition as is Provisions supplementary to section 17

mentioned in that section, an adopted person shall be deemed to be related to any other person being the child or adopted child of the adopter or (in the case of a joint adoption) of either of the adopters-

- (a) where he or she was adopted by two spouses jointly, and that other person is the child or adopted child of both of them, as brother or sister of the whole blood; and
- (b) in any other case as brother or sister of the half-blood.

(2) For the purposes of section 17(2) and of subsection (4) hereof a disposition made by will or codicil shall be treated as made on the date of the death of the testator.

(3) Notwithstanding anything in section 17, trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein, and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

(4) Where an adoption is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of section 17, in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order and in relation to any disposition of property made or taking effect on the death of a person dying after that date.

Power to make subsequent order

19. An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order, and, upon any application for such further adoption order or interim order, the adopter or adopters under the adoption order last previously made shall be deemed to be the parent or parents of the child for all purposes of this Law.

Jurisdiction and procedure

20. (1) The Court having jurisdiction to make adoption orders under this Law is the Grand Court.

(2) Rules directing the manner in which applications to the Court are to be made, for regulating appeals under section 7 and dealing generally with all the matters of procedure and incidental matters arising out of this Law, and for carrying this Law into effect shall be made by the Chief Justice. Such Rules may

provide for applications for adoption orders being heard and determined otherwise than in open Court.

(3) The Rules in the Second Schedule apply until varied or revoked by Rules made under subsection (2).

21. (1) It is not be lawful for any advertisement to be published indicating that-

Restriction on advertisements

- (a) the parent or guardian of a child is desirous of causing the child to be adopted; or
- (b) a person is desirous of adopting a child, or any person (not being the Board) is willing to make arrangements for the adoption of a child.

(2) Whoever causes to be published, or knowingly publishes, an advertisement in contravention of section (1), is guilty of an offence and liable on summary conviction to a fine of one hundred dollars.

22. (1) It is not lawful for a person, in connection with any arrangements made for the adoption of a child who is a British subject, to permit, or to cause or procure, the care and possession of the child to be transferred to a person who is not a citizen of a country listed in the Fifth Schedule or the guardian or a relative of the child and who is resident outside the Islands.

Restrictions on sending children abroad for adoption

(2) It is not lawful for a person, in connection with any such arrangements, to permit, or to cause or procure, the care and possession of such a child to be transferred to a person who is a citizen of a country listed in the Fifth Schedule resident outside the Islands and who is not the guardian or relative of the child, unless a licence has been granted in respect of the child under section 23.

(3) Whoever contravenes subsection (1) or (2) is guilty of an offence and liable on summary conviction to a fine of one hundred dollars and to imprisonment for six months.

(4) In any proceedings under this section, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer is admissible in evidence, and it is not necessary to prove the signature or official character of the person who appears to have signed such report or deposition.

(5) The Governor may, from time to time, amend the Fifth Schedule.

Licence to send child
abroad for adoption

23. (1) A Judge may grant a licence in the form in the Third Schedule, and subject to such conditions and restrictions as he thinks fit, authorising the care and possession of a child for whose adoption arrangements have been made to be transferred to a citizen of a country listed in the Fifth Schedule resident outside the Islands; but subject to this section no such licence shall be granted unless a Judge is satisfied-

- (a) that the application is made by or with the consent of every person who is a parent or guardian of the child in question, or who has the actual custody of the child, or who is liable to contribute to the support of the child; and
- (b) by a report of a British consular officer or any other person who appears to a Judge to be trustworthy, that the person to whom the care and possession of the child is transferred is a suitable person to be entrusted therewith, and that the transfer is likely to be for the welfare of the child, due consideration being given to the wishes of the child, having regard to its age and understanding.

(2) A Judge may dispense with any consent require by paragraph (a) of subsection (1) if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the child or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of a Judge and in all the circumstances of the case, to be dispensed with.

(3) Where a Judge grants a licence under subsection (1), he may authorise the making or receipt by any person of any payments in consideration of the transfer of the care and possession of the child in respect of whom the licence is granted.

(4) Rules governing the application for and grant of licences are prescribed in the Third Schedule, and those Rules may be varied or revoked by Rules made under section 20(2).

(5) In any proceedings under this section, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer is admissible in evidence, and it is not necessary to prove the signature or official character of the person who appears to have signed such report or deposition.

Adopted Children
Register
1996 Revision

24. (1) The Registrar appointed under the Births and Deaths Registration Law (1996 Revision) shall maintain at his office a register called the Adopted Children

Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.

(2) Adoption orders shall contain a direction to the Registrar to make in the Adopted Children Register any entry recording the adoption in the form in the Fourth Schedule.

(3) For the purposes of compliance with subsection (2)-

- (a) where the precise date of the child's birth is not proved to the satisfaction of the Court, the Court shall determine the probable date of its birth and the date so determined shall be specified in the order as the date of birth;
- (b) where the name or surname which the child is to bear after the adoption differs from its original name or surname the new name or surname shall be specified in the order instead of the original name; and
- (c) where the country of birth of the child is not proved to the satisfaction of the Court, the particulars of that country may be omitted from the order and from the entry in the Adopted Children Register.

(4) The Court shall cause every adoption order to be communicated to the Registrar, and upon receipt of such communication the Registrar shall cause compliance to be made with the directions contained in such order in regard both to marking an entry in the Register of Births with the word "adopted" and in regard to making the appropriate entry in the Adopted Children Register.

(5) A certified copy of any entry in the Adopted Children Register if purporting to be signed by the Registrar shall, without any further or other proof of such entry where the entry is made in accordance with subsection (4), be received not only as evidence of the adoption to which it relates but also as evidence of the date of the birth of the child to which it relates in all respects as though the same were a certified copy of an entry in the Register of Births.

(6) The Registrar shall cause an index of the Adopted Children Register to be made and kept in his office, and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register in all respects upon, and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Births and Deaths Registration Law (1996 Revision) in respect of searches in indices relating to births and deaths kept in the office of the Registrar, and in respect of the supply from such office of certified copies of entries in the Registers of Births and Deaths.

1996 Revision

(7) The Registrar shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary, to record and make traceable the connection between an entry in the Register of Births which has been marked “adopted” pursuant to this Law and any corresponding entry in the Adopted Children Register, but such last-mentioned registers and books shall not be nor shall any index thereof be open to public inspection or search, nor, except under an order of a court of competent jurisdiction, shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

FIRST SCHEDULE

ADOPTION OF CHILDREN REGULATIONS

(2003 Revision)

Arrangement of Regulations

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ADOPTION OF CHILDREN REGULATIONS
(2003 Revision)

(Section 8 (3))

1. These Regulations may be cited as the Adoption of Children Regulations (2003 Revision). Citation

2. In these Regulations- Definitions

“case committee” means the committee referred to in section 8; and

“Form” means a form in the First Appendix to these Regulations.

3. Every person desirous of adopting a child shall first make application to the Board in Form A and submit with such application the certificate of a registered medical practitioner in Form B as to the physical and mental health of such person: Application, etc.

Provided that where the adopter is the natural father or mother of the child he or she shall not be required to submit a certificate as aforesaid unless requested by the Board so to do.

4. The Board shall furnish the parent or guardian of the child with a memorandum in Form C and shall not proceed further with any negotiations or arrangements for the adoption of the child unless the parent or guardian has signed and delivered to the Board a certificate (which the Board shall retain) in Form D to the effect that he has read and understood the memorandum and agrees to the terms of the last paragraph thereof. Memorandum to be furnished and receipt therefor

5. The Board shall make enquiries and obtain reports on the matters set out in the Second Appendix hereto and generally on all matters appertaining to the welfare of the child, and the report on the health of the child shall be signed by a registered medical practitioner. The case shall be considered by a case committee appointed by the Board for the purpose and consisting of not less than three members of the Board. Enquiries by Board

6. No child shall be delivered by the Board into the care and possession of an adopter until- Pre-requirements to delivery of child
 - (a) the adopter has been interviewed, and any premises in the Islands in which the adopter intends that the child should reside permanently have been inspected by the case committee or by some person on their behalf; and

(b) the case committee has considered the reports required by regulation 5.

Visits by representative
of Board

7. At least once during every month of the probationary period of three months or six months, as the case may be, prescribed by section 6 or 10, or, where an interim order has been made under section 12, of the period of such order, a representative of the Board shall visit the child and also visit or otherwise make contact with the parents or guardian of the child and shall report upon the case and the result of such visits and contact to the case committee. If the case committee so recommends, the Board shall immediately remove the child from the care and possession of the adopter.

FIRST APPENDIX

Form A

ADOPTION OF CHILDREN REGULATIONS

(2003 Revision)

Application To Board

(regulation 3)

I/We the undersigned desire to make application to the Adoption Board in respect of a-

*Male

or child, approximately aged

Female

or the child named

now residing at

I/We hereby undertake that the particulars given below are true to the best of my/our knowledge and belief.

1. Name (s)
2. Address (es)
3. Country of domicile
4. Date (s) of birth
5. Religion
6. Names and addresses of two responsible persons able to vouch the character of the adopter (s)

**Delete words which do not apply*

N.B.- Where the application is made by one or two spouses, their marriage certificate must be affixed to this form.

F. Whether there is any reason to expect that the applicant's health may deteriorate before the child has reached the age of independence.

Signature ----- Date of Examination -----

Qualifications -----

Form C

Memorandum to be furnished by Board to parent or guardian proposing to place child at disposition of Board

(regulation 4)

ADOPTION OF CHILDREN LAW

(2003 Revision)

If an adoption order is made in respect of your child, all your rights and duties with regard to the child will be transferred permanently to the adopter. If you have taken out an insurance policy against funeral expenses for the child, the insurers will be able to advise you whether the policy can be transferred to the adopters, as is often the case.

It is for the adopters to apply for an adoption order, but unless there is some special reason to the contrary, the court which deals with the application will not make an order without your consent. The main grounds on which an adoption order can be made without the consent of a child's parents or guardians are that they have deserted the child or cannot be found or are out of their proper senses or otherwise incapable of giving consent. You may have to appear before the court in private to tell them whether you agree to the adoption.

Form D

ADOPTION OF CHILDREN REGULATIONS

(2003 Revision)

Certificate of receipt of memorandum to be furnished to board by parent or guardian proposing to place child at disposition of Board

(regulation 4)

To: The Adoption Board

I hereby certify that I received from the Adoption Board a memorandum, Form C, headed "Adoption of Children Law (2003 Revision)", from which I have detached this form of acknowledgement; that I have read the memorandum and understand it and agree to the terms thereof.

Signature:-----

Address:-----

Before

Justice of the Peace

Date:-----

SECOND APPENDIX

(regulation 5)

PART I-Particulars Relating To The Child

1. Name
2. Address
3.
 - (a) Date of birth
 - (b) Weight at birth (state if premature)
 - (c) Present weight
 - (d) Was the mother's confinement normal or instrumental?

4. Is the child a British subject?
5. If baptised, state place of baptism, and denomination
6. Full name, address and age of child's parents
If dead, state date of death
7. Parents' religion (s)
8. Has either parent any other children? If so, state age and sex of each
9. Is there any history of insanity, tuberculosis or other disease in the family of either parent?
10. Why is the child offered for adoption?
11. Has the child any right or interest in property? If so, give full particulars.
12. Has any insurance been effected on the life of the child?
13. If the mother is alive-
 - (a) is she married? If so, to whom?
 - (b) does she consent to the adoption?
14. If the father is alive-
 - (a) is he married? If so, to whom?
 - (b) if not, is he otherwise liable to contribute to the child's maintenance? If so, give particulars.
(If the parents are separated, state whether there is a separation order in force).
 - (c) does he consent to the adoption?
15. If the child has guardians, state-
 - (a) their names and addresses;
 - (b) how and by whom they were appointed; and
 - (c) whether they consent to adoption.
16.
 - (a) Are any other persons liable to contribute to the support of the child?
 - (b) If so, do they agree to adoption?
17. If the answer to question 13 (b), 14 (c), 15 (c) or 16 (b) is "No", the reason should be stated.
18. Was the child-
 - (a) entirely-breast fed?
 - (b) partially breast fed? or
 - (c) entirely bottle fed?
19.
 - (a) when did the child begin to walk?
 - (b) when did the child begin to talk?

PART II-Medical Certificate

(The medical report must be signed by a registered medical practitioner)

1. State of nutrition of the child (good, fair, poor).
2. Are there any evidences of syphilis or other venereal diseases? State laboratory tests applied and their results.
3. Is there any evidence of tuberculosis?
4. Has the child had fits? If so, state nature.
5. Is there, or has there been any affection of the skin?
6. Is there, or has there been any affection of the eyes? Is the sight normal?
7. Has the child had any discharge from the ears, or any serious ear trouble, and can it hear well?
8. Are the nose and throat in healthy condition?
9. Is there any evidence of disease of heart or lungs?
10. Has the child normal control of bowels and bladder for its age?
11. Is the child now suffering from any infectious or contagious disease?
12. Has the child had malaria, typhoid fever, measles, chicken-pox, whooping cough, diphtheria or mumps?
13. Has the child been vaccinated?
14. Is the child's mental and physical development normal for its age?
15. Has the child any physical deformities?
16. Are behaviour, speech and articulation normal for its age?
17. If the child has been neglected, or improperly fed, do you consider its constitution such that good nursing and proper care, would make it suitable for adoption?
18. Give particulars of any condition not mentioned above, about which you consider an adopter should be informed.

SECOND SCHEDULE

ADOPTION OF CHILDREN RULES

(2003 Revision)

Arrangement of Rules

1. Citation
 2. Definitions
 3. Application, etc.
 4. Circumstances in which Court will entertain second application for same child
 5. Guardian *ad litem*
 6. Proceedings to be in camera
 7. Personal attendances
 8. Court may direct separate attendances
 9. Notice of adjourned hearings
 10. Adoption and Interim Orders
 11. Hearing of postponed applications
 12. Costs
 13. Registrar to be sent copies
 14. Rules of Court to apply
 15. Appeals
 16. Notice of appeal
 17. Service of notice of appeal
 18. Duties of Clerk of Court when notice of appeal filed
 19. Board to supply reasons for decisions, etc.
 20. Appeals by way of rehearing
- Appendix: Forms

ADOPTION OF CHILDREN RULES

(Section 20 (3))

(2003 Revision)

1. These Rules may be cited as the Adoption of Children Rules (2003 Revision). Citation

2. In these Rules- Definitions

“applicant” means the person or persons making an application for an adoption order under the Law; and

“Form” means a form in the Appendix to these Rules.

3. (1) Every application for an adoption order shall be made by summons and shall be intituled in the matter the child and in the matter of the Law and there shall be presented to the Court a written statement in duplicate according to Form A, accompanied by a statement of particulars according to Form B and (except where the applicant is the mother or father of the child) written consents in Form D. A non-refundable fee of seventy-five dollars shall accompany the application of each child. Application, etc.

(2) Except in a case where the applicant has made a previous application to a Court in respect of the same child, or the Court specially requires the attendance of the applicant, the attendance in person of the applicant shall not be necessary for the purpose of lodging the aforesaid statement and documents.

(3) The Board shall lodge in the Court on every application for an adoption order the certificate of the parent or guardian of the child referred to in regulation 4 of the Adoption of Children Regulations (2003 Revision) and a statement with respect to the identity of the child in Form C.

(4) If any person proposing to apply to the Court for an adoption order desires that his identity shall be kept confidential, he may, before taking out the appropriate summons apply to the Clerk of the Court for a serial number to be assigned to him for the purposes of the proposed application and such a number shall be assigned to him accordingly.

(5) Unless it appears from the application, or is otherwise shown to the satisfaction of the Court, that the applicant does not desire that his identity should be kept confidential, the proceedings shall be conducted with a view to securing that he is not seen by or made known to any individual being a respondent (other than the child or spouse of the applicant); and in particular the Court shall direct

that the applicant (unless his attendance is dispensed with under rule 7) shall attend and be heard and examined separately and apart from any such respondent.

Circumstances in which Court will entertain second application for same child

4. If it appears to the Court that the applicant has made a previous application under the Law in respect of the same child, the Court shall not entertain the application unless satisfied that there has been a substantial change in the circumstances.

Guardian *ad litem*

5. (1) The Court shall appoint some person to be guardian *ad litem* of the child in respect of whom the application is made.

(2) The following persons shall be made respondents, namely, the child in respect of whom the application is made, every person who is a parent or guardian of the child or has the actual custody of the child or is liable to contribute to the support of the child, and where the applicant has a spouse who is not also an applicant, the spouse of the applicant.

(3) The Court shall fix a time for the hearing of the application and shall issue a notice in Form E addressed to the respondents and shall direct the Board to cause such notice to be served on each of them:

Provided that where the child is in actual custody of any person, such notice need not be served on the child, but may require such person to produce the child to the Court, unless the Court is satisfied by a report from the Board that special circumstances exist which render it inexpedient or unnecessary that the child shall personally attend before the Court.

(4) Any notice under these Rules shall be served upon any respondent to whom it is addressed either by delivering a copy to him personally or by leaving a copy with some person for him at his last known or usual place of abode or by sending a copy by registered post to him at his last known or usual place of abode, whether such place of abode is in the Islands or elsewhere.

Proceedings to be in camera

6. All proceedings under the Law shall be made, heard and determined in camera.

Personal attendances

7. (1) Subject to this Rule, an adoption order or an interim order shall not be made except after the personal attendance before the Court of the applicant and the parent or guardian of the child; notwithstanding in the case of the parent or guardian, that written consent has been obtained or that the Court is asked to dispense with consent.

(2) The Court may waive the requirement under subrule (1) in the case of the parent or guardian of the child, if satisfied that any such person cannot be found or is incapable of giving consent or if for any reason the Court thinks it is right or desirable that this requirement should be waived.

(3) In any case where the Court dispenses with the personal attendance of any person, the written consent of that person verified by a declaration purporting to be made before and signed by a Justice of the Peace shall be *prima facie* evidence of such consent.

(4) In the case of a joint application for an adoption order or an interim order, the Court may, if it thinks fit, dispense with the personal attendance of one spouse if his or her application is verified by a declaration purporting to be made before and signed by a Justice of the Peace.

8. Subject to this rule and rules 7 (4) and 11(3)(b), the Court may direct that the applicant or any respondent shall attend and be heard and examined separately and apart from the other parties to the application:

Court may direct separate attendances

Provided that no such direction shall be given unless-

- (a) the Court is satisfied that the giving of the direction is desirable and will not prejudice the determination of any question involved; and
- (b) the consent of the applicant or respondent whom it is proposed that the direction shall given and of all other parties to the application is first obtained.

9. On any adjournment of the hearing, the Court may issue to any respondent not in attendance a notice the time and place to which the hearing is adjourned and may direct the Board to cause it to be served.

Notice of adjourned hearings

10. (1) An adoption order or an interim order shall be in Form F or Form G as the case may require.

Adoption and interim orders

(2) No copy or duplicate of such order shall be given to or served upon any person other than the applicant and the Clerk of the Court, as the case may be, except by special direction of the Court.

(3) An interim order shall include such provision for the maintenance and education of the child and such terms as regards the exercise of supervision by the Board or otherwise as the Court may think fit.

- Hearing of postponed applications
11. (1) Where the determination of an application has been postponed and an interim order has been made, the applicant shall, at least two months before the expiration of the order, apply to the Court which made the interim order to proceed with the determination of the application and it shall thereupon be lawful for the Court to fix a time for the further hearing of the application and to issue a notice in Form H, addressed to the respondents and to direct the Board to cause such notice to be served on each of them:
- Provided that where the child is in the actual custody of the applicant the notice need not be served on the child.
- (2) Subject to this rule, where the applicant so applies, an adoption order shall not be made unless the applicant, the child and a representative of the Board have attended the further hearing.
- (3) (a) The Court may waive the requirement under subrule (2) in the case of the child if satisfied by a report from the Board that special circumstances exist which render it inexpedient or unnecessary that the child shall personally attend before the Court; and
- (b) in the case of a joint application, the Court may, if it thinks fit, dispense with the personal attendance of one spouse, if his or her application is verified by a declaration purporting to be made before and signed by a Justice of the Peace.
- Costs
12. On the making of an interim order or on the determination of the application the Court may make such an order as to costs as it may think just and in particular may order the applicant to pay the out-of-pocket expenses incurred by the guardian *ad litem* or incurred in attending the Court by any other of the respondents, or such part thereof as the Court thinks proper, and such costs or expenses shall be recoverable summarily as a civil debt.
- Registrar to be sent copies
13. (1) Upon the making of an adoption order the Clerk of the Court shall, within seven days from the date thereof, send a duplicate or a certified copy of the order to the Registrar-General and shall also, subject to the payment by the applicant of any fee required by law, deliver or send a duplicate or certified copy to the applicant.
- (2) The duplicate or certified copy, if sent by post, shall be sent by registered post.
- Rules of Court to apply
14. Subject to rules 3 to 13, the Rules of Court shall, *mutatis mutandis*, apply in respect of all proceedings under this Law.

15. The Board shall, if so required by any person entitled under the Law to appeal (hereinafter called “the appellant”), deliver to him and file in their proceedings a statement of the reasons for their decision. Appeals
16. An appellant who desires to appeal against a decision of the Board shall, within fourteen days after the receipt by him of the notification of the Board’s decision, file with the Clerk of the Court a notice in writing to that effect in Form I (hereinafter called a “notice of appeal”) stating therein- Notice of appeal
- (a) the grounds of his appeal;
 - (b) his address for service; and
 - (c) the names and addresses of the persons intended to be served.
17. In every notice of appeal the persons referred to in rule 5 (2), except the appellant, shall be named as respondents, each of whom shall be served with a copy of the said notice by the appellant within fourteen days after the receipt by him of the notification of the Board’s decision. Service of notice of appeal
18. On the filing of a notice of appeal, the Clerk of the Court shall- Duties of Clerk of Court when notice of appeal filed
- (a) enter the appeal in the books of the Court and fix a day for the hearing of the appeal by a Judge in Chambers, and
 - (b) serve on the appellant and on each of the respondents a notice in Form J by delivering it or posting the same to them at their respective addresses.
19. Forthwith upon the serving of the notice of appeal, or as soon as may be thereafter, the Clerk of the Court shall request the Board to furnish him immediately- Board to supply reasons for decision, etc.
- (a) the reasons for the Board’s decision;
 - (b) all the relevant reports and correspondence and answers to the enquiries on the matters set out in the Second Appendix to the Regulations contained in the First Schedule to the Law or copies thereof; and
 - (c) any other information on which the Board based its decision,
- and the appellant, should he desire to do so, may obtain copies of the same from the Clerk of the Court on payment of the fees prescribed by the Rules of Court for office copies of documents.
20. Every appeal shall be by way of rehearing, and the Rules of Court shall apply thereto unless it is otherwise provided in these Rules. Appeals by way of rehearing

APPENDIX

FORMS

Form A

ADOPTION OF CHILDREN RULES

(2003 Revision)

**Application for an Adoption Order in respect of a child named-----
known to the Adoption Board as Case No.**

Rule 3 (1)

To the Court:

I/We, the undersigned

resident at
hereby state:

1. I am/We are desirous of being authorised under the Adoption of Children Law (2003 Revision) to adopt a child of the sex, resident at in the Islands hereinafter called "the child".

*Delete except in the case
of de facto adoption*

2. The child was on the date of coming into force of the said Law in my/our custody and was being brought up, maintained and educated by me/us as my/our child under a *de facto* adoption and had been in my/our custody and had been so maintained and educated for a period of not less than two years before that date, to wit, from and after the day of 20 .

3. The child has been in my/our care and has been brought up, maintained and educated by me/us since .

4. We are married to each other;
(or I am unmarried)
(or I am married to whose written consent to the making of the order is appended hereto).

5. I am/ We are domiciled in the Islands.

6. I/We have not received or agreed to receive, and no person has made or given or agreed to make or give to me/us, any payment or other reward in consideration of the adoption (except as follows:).

7. I/We have made no previous application under this Law in respect of the child (other than the application made to the Court on the day of , 20 , which was dealt with as follows, viz.:).

8. The particulars furnished in this application and in the attached form are true and complete and I am a/we are fit and proper person (s) to maintain and bring up the child suitably.

In witness whereof I/we have signed this statement on the day of 20 .

Signature of Applicant (s)
(giving full first names).

Form B

ADOPTION OF CHILDREN RULES

(2003 Revision)

Particulars to be furnished with application for Adoption Order

Rule 3 (1)

Name in full
Address
Occupation
Date of Birth
Relationship, if any, to the child
Age last birthday

These particulars are to be furnished by both male and female applicant, if the application is being made by two spouses.

Form C

ADOPTION OF CHILDREN RULES

(2003 Revision)

Statement to be lodged in Court by Board on every application for an Adoption Order

Rule 3 (3)

Statement by Adoption Board of identity of child now named _____ known to the Adoption Board as case no. _____

To the _____ Court:

1. I, _____, being a member of the Adoption Board hereby certify that the child above named Adoption Board Case No. _____, is the child formerly known as _____.

2. The father of the child is _____, now resident at _____, whose written consent to the making of an adoption order is appended hereto; and the mother of the child is _____, now resident at _____ whose written consent to the making of the adoption order is appended hereto.

3. The child was born on the _____ day of _____, 20____, and is identical with the child to whom the attached certified copy of an entry in the Register of Births relates.

4. The child has never been married.

*5. The guardian (s) of the child is/are _____, whose written consent (s) to the making of an adoption order is/are appended hereto.

*6. The child is in the actual custody of _____ of _____, whose written consent to the making of an adoption order is appended hereto.

*7. _____, of _____, is/are liable to contribute to the support of the child and his/their written consent (s) to the making of an adoption order is/are appended hereto.

Signature of member of Adoption Board

Dated

* *Delete whichever is not applicable.*

Form D

**ADOPTION OF CHILDREN RULES
(2003 Revision)**

Consent of parent or guardian of child

Rule 3 (1)

Consent to an Adoption Order in respect of a child formerly named and known to the Adoption Board as Case No.

An application to _____ Court being made for an order authorising the adoption under the Adoption of Children Law (2003 Revision) of the said child.

I/We the undersigned _____, of _____ being-

- (a) the father of the child
- (b) the mother of the child
- (c) a guardian of the child
- (d) a person (acting on behalf of a body) having the actual custody of the child
- (e) a person (acting on behalf of a body) being liable to contribute to the support of the child
- (f) the spouse of the applicant
- (g) serial number

Delete all but one of these descriptions, except in the case of father and mother consenting jointly

hereby state that I/we understand the nature and effect of the Adoption Order for which application is made (and that in particular I/we understand that the effect of the order will be permanently to deprive me/us of my/our parental rights) and I/we hereby consent to the making of an adoption order in favour of the applicant (on condition that the religious persuasion in which the child is brought up is).

In witness whereof I/we have signed this consent on the _____ day of

_____, 20 ____ .

Signature
Address
Description

Signed in the presence of _____

Address
Signature
Description

Form E

**ADOPTION OF CHILDREN RULES
(2003 Revision)**

See Note 1
See Note 2

**Notice of application for an Adoption Order in respect of a child named (1)
formerly (2) known to the Adoption Board as Case No.**

Rule 5 (3)

In the _____ Court.
To _____ of _____
and _____ of _____, etc.

Take notice:

See Note 3

(1) That an application has been made by (3) _____ for an order under the Adoption of Children Law (2003 Revision) authorising him to adopt the said child, being a child of the _____ sex, aged _____ years, resident at _____.

(2) That the said application will be heard before the Court sitting at _____ on the day _____ of _____, 20____, at the hour of _____ in the fore/after noon and that you are severally required to attend before the Court (and in the case of _____ produce the said child before the Court).

Dated the _____ day of _____ 20____.

Notes:

- (1) *Insert name or names by which the child is to be known.*
- (2) *Delete where there is no change of name. Where there is change of name insert former names, including surname.*
- (3) *Where the application is made by two spouses jointly the form should be modified; and where under a serial number, the serial number should be inserted.*

Form F

**ADOPTION OF CHILDREN RULES
(2003 Revision)**

See Note 1
See Note 2

**Adoption Order in respect of a child named (1)
formerly (2) _____.**

Rule 10(1)

Before the _____ Court sitting at _____,
the _____ day of _____, 20 ____ .
Application has been made by _____ (hereinafter called the
male applicant), a person not under the age of 25 years, by occupation
_____, resident at _____, in the Islands and domiciled in
the Islands (and by _____, his wife (hereinafter called the female
applicant) being the mother of the child or a person not under the age of 25 years)
(and the applicant/one of the applicants being the mother/father of the child) (by
serial number _____) that he/she/they is/are desirous of being
authorised under the Adoption of Children Law (1996 Revision), to adopt a child
of the _____ sex aged _____ years, resident at _____, in the
Islands, who has never been married, the child of _____ (and
of _____ his wife) (hereinafter called the child);
And the male (and female) applicant (s) being (respectively) not less than 25
years old;
And the male (and female) applicant (s) has/have attained the age of 21 years and
is/are a relative (s) of the child;
(And the male applicant being the putative father of the child);
(And the female applicant being the mother of the child);
And all consents required by the Law having been obtained or dispensed with;
It is adjudged that the statements made in the application are true;
(And the following payment or reward is sanctioned, viz.: _____);
And it is ordered that the applicant (s) be authorised to adopt the child;
(And as regards costs it is ordered that _____);
And it is directed that the Registrar-General shall make an entry recording this
adoption in the Adopted Children Register in accordance with the particulars set
out in the Schedule hereto and shall enter the date of birth of the child in column
6 of the said Register as the _____ day of _____, 20 ____ ;
And it having been proved to the satisfaction of the Court that the child was born
on the date last mentioned and is identical with _____, to whom
an entry numbered and made on the _____, day of _____ 20 ____, in the
Register of Births for the Registrar's district of _____ relates, it is
further directed that the Registrar-General, in addition to making in the Adopted
Children Register the entry of the date of birth directed above, shall cause the
aforesaid entry in the Register of Births to be marked with the word "Adopted."

See Note 3

Delete words not applicable

Delete words not applicable

SCHEDULE TO FORM F

Name of adopted child (See Note (1))	Sex of adopted child	Name and surname, address and occupation of adopter or adopters	Date of birth of child	Date of adoption order and description of Court by which made

Notes:

- (1) *Insert name or names, including surname, by which the child is to be known.*
- (2) *Delete where there is no change of name. Where there is change of name, insert former name including surname.*
- (3) *Insert first name or names by which the child is to be known. The surname should not be stated here.*
- (4) *Where no entry relating to the child is found in the Register of Births this paragraph should be deleted.*
- (5) *An adoption order, or copy sent to the Registrar-General is required to be drawn up on paper of foolscap folio size, thirteen inches by eight inches, and to have a margin, to be left blank, not less than one inch wide on the left side of the face of the order, and a similar margin in the right side of the reverse if any.*

Form G

ADOPTION OF CHILDREN RULES

(2003 Revision)

**Interim Order in respect of a child named (1)
(2)**

formerly

Rule 10 (1)

Before the Court sitting at
the day of , 20 .
Application has been made by , hereinafter
called the male applicant, a person not under the age of 25 years, by
occupation , resident at , in the
Islands and domiciled in the Islands (and by , his wife,
hereinafter called the female applicant, being the mother of the child or a person
not under the age of 25 years) (and the applicant/one of the applicants being the
mother/father of the child (by serial number) that he
/she/they is/are desirous of being authorised under the Adoption of Children Law
(2003 Revision) to adopt (3) a child of the sex,
aged years, resident at , in the Islands, who has
never been married, the child of (and of , his wife),
herein called the child: And the male (and female) applicant (s) being not less
than 25 years old; (And the male (and female) applicant (s) has/have attained the
age of 21 years and is/are relative (s) of the child); (And the male applicant being
the putative father of the child); (And the female applicant being the mother of
the child); And all the consents required by the Law having been obtained or
dispensed with;
It is adjudged that the statements made in the application are true;
And the determination of the application is postponed and it is ordered that the
custody of the child be given to the applicant (s) for a period not exceeding two
years, viz., until the day of , 20 , by way of a
probationary period upon the following terms, viz. and that the
applicant (s) shall, at least two months before that date, apply for a determination
of the application: (And as regards costs it is ordered that-----
-----).

Delete words not applicable

Delete words not applicable See Note 3

Notes:

- (1) *Insert the name or names, including surname, by which the child is to be known.*
- (2) *Delete where there is no change of name. Where there is change of name, insert former name including surname.*
- (3) *Insert first name or names by which the child is to be known. The surname should not be stated here.*

Form H

ADOPTION OF CHILDREN RULES

(2003 Revision)

See Note 1
See Note 2

Notice of further hearing of an application for an Adoption Order in respect of a child named (1) formerly (2) .

Rule 11 (1)

Before the Court sitting at the day
of , 20 .
To of and
of , etc.

Take notice

See Note 3

(a) That an application was made by (3) for an order under the Adoption of Children Law (2003 Revision) authorising him to adopt the said child, being a child of the sex, then aged years.

(b) That the determination of the said application was postponed and an interim order was made by the Court sitting at on the day of , 20 .

(c) That the said application will be further heard before Court sitting at on the day , 20 , and that it is open to you to attend before the Court.

Dated this day of , 20 .

Notes:

- (1) *Insert name or names, including surname by which the child is to be known.*
- (2) *Delete where there is no change of name. Where there is change of name, insert former name, including surname.*
- (3) *Where the application was made by two spouses jointly the form should be modified.*

Form I

ADOPTION OF CHILDREN RULES

(2003 Revision)

Notice of Appeal

Rule 16

In the matter of the appeal of (an adopter or parent or guardian as the case may be) against a decision of the Adoption Board and

In the Matter of the Adoption of Children Law (2003 Revision).

I, _____ being aggrieved at the decision of the Board dated the _____ day of _____, 20____, that the adoption of _____ a male/female child by _____ would not be in the best interest of the child, do hereby appeal against such decision on the following grounds-

(Here set out reasons for appeal)

I request you to enter my appeal for hearing. The name and address of the respondent are-
My address for service is-

Dated this _____ day of _____, 20____.

To:

(Signed)

Appellant

(Name and address of Respondent)

Form J

ADOPTION OF CHILDREN RULES

(2003 Revision)

**In the matter of the appeal of (an adopter or parent or guardian as the case may be) against a decision of the Adoption Board
and**

In the Matter of the Adoption of Children Law (2003 Revision)

Rule 18(b)

TAKE NOTICE that the appeal in this matter from the decision of the Adoption Board dated the _____ day of _____, 20____, will be heard by a Judge in Chambers on the _____ day of _____, 20____, at the hour of _____ in the fore/after noon, and that if you do not attend at the time and place above mentioned, such order will be made as the Judge thinks fit.

Dated this _____ day of _____, 20____.

Clerk of the Court

THIRD SCHEDULE

ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES

(2003 Revision)

Arrangement Of Rules

1. Citation
 2. Application for licence
 3. Notice of application
 4. Report from consular officer, etc.
 5. Fixture to be made
 6. Service of notices
 7. Notice to produce child
 8. Service: mode and proof thereof
 9. Forms
 10. Persons attending may be sworn
 11. Form of licence
- Appendix: Forms

ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES

(2003 Revision)

(Section 23)

1. These Rules may be cited as the Adoption of Children (Transfer Abroad) Rules (2003 Revision). Citation

2. An application for a licence under section 23 authorising the care and possession of a child, being a British subject for whose adoption arrangements have been made to be transferred to a person resident outside of the Islands may be made by a parent or guardian of the child or by the Board. Application for licence

3. Notice of the application shall be given to the Clerk of the Court in Form 1 in the Appendix. Notice of application

4. The Clerk of the Court shall cause a copy of the notice to be sent to a British consular officer or to some other person abroad who appears to the Clerk of the Court to be trustworthy, and shall request the officer or person to report whether the person to whom the care and possession of the child is proposed to be transferred is a suitable person to be entrusted therewith. Report from consular officer, etc.

5. Upon receipt of a report from the British consular officer or the person referred to in rule 4, the Clerk of the Court shall fix a time for the hearing of the application and shall send to the applicant a notice in Form 2 in the Appendix. Fixture to be made

6. A copy of the notices referred to in rules 3 and 5 shall be served by the applicant upon the child and the Board and upon every person who is a parent or guardian of the child, or who has the actual custody of the child, or who is liable to contribute to the support of the child: Service of notices

Provided that the Clerk of the Court may dispense with the service required by this rule of a copy of the notices-

 - (a) upon any person other than the child, if he is satisfied that that person cannot be found; and
 - (b) upon the child, if he thinks fit, having regard to the age and understanding of the child.

7. The Clerk of the Court may issue a notice in Form 3 in the Appendix requiring any person who has the actual custody of the child to produce the child at the hearing of application and the applicant (unless he himself has the actual custody of the child) shall serve the notice upon that person. Notice to produce child

Adoption of Children Law (2003 Revision)

- Service: mode and proof thereof 8. (1) The service of any document under rule 6 or 7 may be effected by delivering it to the person to be served or by sending it by registered post to him at his last known or usual place of abode.
- (2) The service of any such document as aforesaid may be proved by the production of a declaration in Form 4 in the Appendix or in a form to the like effect purporting to be made before a Justice of the Peace.
- Forms 9. (1) The persons upon whom a copy of the notices referred to in rule 6 is required by that rule to be served may attend at the hearing of the application and shall be entitled to be heard.
- (2) The consent of a person to the making of the application, if given in writing, may be proved by the production of a declaration in Form 5 in the Appendix or in a form to the like effect purporting to be made and signed by that person before a Justice of the Peace.
- Persons attending may be sworn 10. A Judge hearing the application may require any person attending for the purpose of making or opposing the application or giving evidence in the matter to be sworn.
- Form of licence 11. Any licence granted under section 23 of the Law shall be in Form 6 in the Appendix.

APPENDIX

Form 1

ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES

(2003 Revision)

Form of notice of an application for a licence under section 23 of the Adoption of Children Law (2003 Revision).

(Rule 3)

To the Clerk of the Court:

I hereby give notice that I intend to apply for a licence under section 23 of the Adoption of Children Law (2003 Revision) in respect of a male/female child named _____ aged _____ years, born on the _____ day of _____, 20____.

The child is a British subject and is the subject of arrangements for his/her adoption as follows-

(Here set out the arrangements).

* The father of the child is _____ of _____, a _____ subject, aged _____ years. **If the father or mother is dead the fact should be stated*

* The mother of the child is _____ of _____, a _____ subject, aged _____ years.

* The guardian of the child is _____ of _____, a _____ subject, aged _____ years. **Strike out this paragraph if it does not apply*

The child is at present in the actual custody of _____ of _____.

*The following persons are liable to contribute to the support of the child. **If no persons are liable write "none". If anyone is liable, state the reason for the liability*

- 1. _____ of _____ .
2. _____ of _____ .

The person to whom the care and possession of the child is proposed to be transferred is _____ ; a citizen of a scheduled country as defined in section 23, resident at _____.

*The following financial arrangements have been made (or are contemplated) in consideration of the transfer of the care and possession of the child (here set out the arrangements). **Give full particulars. If there are no arrangements write "None".*

**Insert capacity, i.e. parent, guardian or person concerned in making arrangements for the adoption.*

My full name, address and nationality is
and I am making this application as *

Signature of Applicant-----
Date-----

Form 2

ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES

(2003 Revision)

Form of notice of hearing

(Rule 5)

To the applicant for a licence under section 23 of the Adoption of Children Law (2003 Revision) (to the child to whom the application relates); and to any person who is a parent or guardian of the child, or who has the actual custody of the child, or who is liable to contribute to the support of the child and to the Board:

Take notice that an application by _____ for a licence under section 23 of the Adoption of Children Law (2003 Revision) authorising the care and possession of _____ for whose adoption arrangements have been made to be transferred to a citizen of a scheduled country listed in the Fifth Schedule to the Law resident outside the Islands at _____

_____, will be heard at _____ Court on day, the _____ day of _____, 20____, at the hour of _____ in the fore/after noon, and further take notice that you may attend the hearing of the said application, and may, if you wish, either support or oppose the granting of a licence.

Dated the _____ day of _____, 20____.

Clerk of the Court

Form 3

ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES

(2003 Revision)

Form of notice requiring production of child at the hearing of an application

(Rule 7)

To the person having the actual custody of the child in respect of whom an application for a licence under section 23 of the Adoption of Children Law (2003 Revision) is to be made:

Take notice that you are required to produce a child in your custody, at the hearing at Court on day, the day of 20 , at in the fore/after noon in respect of an application by for a licence under section 23 of the Adoption of Children Law (2003 Revision) authorising the care and possession of the said child for whose adoption arrangements have been made to be transferred to , a citizen of a scheduled country listed in the Fifth Schedule to the Law, resident outside the Islands at .

Dated the day of 20 .

Clerk of the Court

Form 4

ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES

(2003 Revision)

Form Of Declaration Of Service

(Rule 8(2))

I, of hereby declare that I did on the day of , 20 , serve of

with a copy of the notice of application for a licence under section 23 of the Adoption of Children Law (2003 Revision) in respect of the child named and of the notice of hearing on the said application at Court on the day of , 20 , at the hour of in the fore/after noon (*and a notice requiring the production of the said child at the said hearing) by -

- (i) delivering the said document(s) to personally;

**Strike out words which do not apply*

(ii) sending the said document(s) by registered post to
at being
his/her last known or usual place of abode.

Declared before me the day of , 20 .

Justice of the Peace

Form 5
ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES
(2003 Revision)

Form of consent to the making of an application

(Rule 9)

**Strike out words which
do not apply*

I, of
of being *the father, mother, guardian, person having the actual custody, a person
liable to contribute to the support of the child named with respect
to whom the application is to be made at Court
by on the day
of , 20 , for the grant of a licence under section 23 of the
Adoption of Children Law (2003 Revision), authorising the care and possession
of the said child for whose adoption arrangements have been made to be
transferred to , a citizen of a scheduled country listed in
the Fifth Schedule to the Law, resident outside the Islands at ,
do hereby declare that I consent
to the making of the said application.

In witness whereof I have signed this consent on the day
of , 20 .

Signature

Before

Justice of the Peace

Form 6

ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES

(2003 Revision)

Form of Licence

(Rule 11)

WHEREAS application has been made this _____ day of _____, 20____, by _____ of _____, for a licence under section 23 of the Adoption of Children Law (2003 Revision) to authorise the care and possession of _____, a child aged _____ years, born as far as can be ascertained on the _____ day of _____, 20____, to be transferred to _____ a citizen of a scheduled country listed in the Fifth Schedule to the Law, resident outside the Islands, that is to say at _____

AND WHEREAS I, the undersigned, have heard the said application and am satisfied that if the consents required by the said section have been given or dispensed with, and am further satisfied by the report of _____ that the aforesaid _____ is a suitable person to be entrusted with the care and possession of the said child, and that the transfer is likely to be for the welfare of the said child:

AND WHEREAS I am further satisfied that the aforesaid application is made in connection with arrangements which have been made for the adoption of the said child by _____ of _____:

NOW, THEREFORE I, the undersigned, do hereby grant, subject to the conditions and restrictions set out in the Appendix hereto, this licence authorising the care and possession of the said _____ to be transferred to the said _____ and I do hereby authorise the making and receipt of payments as follows-

Judge of the Grand Court

APPENDIX

The conditions and restrictions referred to above are-

FOURTH SCHEDULE

(Section 25(2))

ADOPTED CHILDREN REGISTER

(1) No. of entry	(2) Date of entry	(3) Name of adopted child (enter name as stated in Adoption Order)	(4) Sex of adopted child (enter sex as stated in Adoption Order)	(5) Name and surname, address and occupation of adopter or adopters (enter name, address and occupation as stated in Adoption Order)	(6) Date of birth of child and country of birth	(7) Date of Adoption Order and description of court by which made (entry to be made as appearing in the Adoption Order)	(8) Signature of officer deputed by Registrar to attest the entry

FIFTH SCHEDULE

(Section 23)

LISTED COUNTRIES

Commonwealth Countries
United States of America
Switzerland

Publication in consolidated and revised form authorised by the Governor in Council this 6th day of May, 2003.

Carmena Watler
Clerk of Executive Council

Notes (not forming part of the Law):

1. No decision, act or proceedings of the Adoption Board in purported compliance with the Adoption Law (1996 Revision) from 8th July, 1999 to 1st January, 2002 shall be invalid by reason only that there was a defect in the appointment of the Board or of a person purporting to be a member of the Board. (See s.2 of Law 14 of 2002).

2. Any proceeding before the court or any matter being dealt with by the Board before the 3rd of October, 2002 relating to a child of the age of sixteen years or under which has not been wholly completed by the 3rd of October, 2002 is to be taken to be a proceeding or matter to be dealt with under this 2003 Revision and the provisions of this 2003 Revision shall apply accordingly. (See s.3 of Law 16 of 2002)