

CAYMAN ISLANDS

THE ADOPTION OF CHILDREN LAW, 1967

SECOND SCHEDULE

Section 20 (3)

Adoption of Children Rules, 1967

1. These Rules may be cited as the Adoption of Children Rules, 1967.
2. In these Rules -
  - “applicant” means the person or persons making an application for an adoption order under the Law;
  - “Board” means the Adoption Board constituted under section 3 of the Law;
  - “Court” has the same meaning as in section 2 of the Law;
  - “the Law” means the Adoption of Children Law, 1967.
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 in the Appendix hereto, accompanied by a statement of particulars according to Form B in the said Appendix and (except where the applicant is the mother or father of the child) written consents according to Form D in the said Appendix.
  - (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, 1967, and a statement with respect to the identity of the child in the Form C in the Appendix hereto.

(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.

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.

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 according to Form E in the Appendix hereto 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.

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

7. (1) Subject to the provisions of 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 paragraph (1) of this rule 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 be verified by a declaration purporting to be made before and signed by a Justice of the Peace.

8. Subject to the provisions of this rule and of 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: 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 to whom it is proposed that the direction shall be 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 of the time and place to which the hearing is adjourned and may direct the Board to cause it to be served.

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

(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.

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 the Form H in the Appendix hereto, 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 the provisions of 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 paragraph (2) of this rule 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;

(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 be verified by a declaration purporting to be made before and signed by a Justice of the Peace.

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.

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.

14. Subject to the foregoing rules, the Rules applicable under section 88 of the Judicature (Administration of Justice) Law shall apply in respect of all proceedings under this Law as if the application were a complaint and the respondents were defendants and the notice under rule 5 were a summons.

## APPEALS

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.

16. The 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 in the Appendix hereto (hereinafter called a "notice of appeal") stating therein -

- (a) the grounds of his appeal;
- (b) his address for service;
- (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.

18. On the filing of a notice of appeal, the Clerk of the Court shall -

- (a) enter the appeal in the Books of the Court and fix a day for the hearing of the appeal by the Judge in Chambers, and
- (b) serve on the appellant and on each of the respondents a notice in the Form J in the Appendix hereto 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 -

- (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 men-

tioned in the First Schedule to the Law or copies thereof;

(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.

## APPENDIX TO SECOND SCHEDULE

### FORM A

### Rule 3 (1)

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

To the \_\_\_\_\_ Court

I (or We), the undersigned

resident at

hereby state:

1. I am (or We are) desirous of being authorised under the provisions of the Adoption of Children Law, 1967, to adopt

a child of the \_\_\_\_\_ sex, resident at  
in the Islands hereinafter called "the child."

2. The child was on the date of coming into force of the said Law in my (or our) custody and was being brought up, maintained and educated by me (or us) as my (or 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 2 years before that date, to wit, from and after the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Delete  
except  
in the  
case of  
de facto  
adoption.

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 (or We are) domiciled in the Islands.

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

7. I (or 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 \_\_\_\_\_, 19\_\_\_\_, 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 (or we are) fit and proper person (s) to maintain and bring up the child suitably.

In witness whereof I (or we) have signed this statement on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

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



FORM B

Rule 3 (1)

Particulars to be furnished with Application for Adoption  
Order

Name in full

Address

Occupation

Date of Birth

Age last birthday

Relationship (if any) to the child

Govt. Notice No. 153 of 1967

Date of Operation: 2nd January, 1968

