

1976 No. 1645 (L. 30)
CHILDREN AND YOUNG PERSONS
The Adoption (High Court) Rules 1976

Made - - - - - 4th October 1976

Laid before Parliament 13th October 1976

Coming into operation in accordance with Rule 1

The Lord Chancellor, in exercise of the powers conferred on him by section 9(3) of the Adoption Act 1958(a), as amended by paragraph 22 of Schedule 3 to the Children Act 1975(b), and all other powers enabling him in that behalf, hereby makes the following Rules:—

Citation and commencement

1.—(1) These Rules may be cited as the Adoption (High Court) Rules 1976 and shall come into operation on the date appointed by the Secretary of State for the coming into force of section 8(1) of the Children Act 1975.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires—

“the Act of 1958” means the Adoption Act 1958;

“the Act of 1975” means the Children Act 1975;

“the child” means the person whom the applicant for an adoption order proposes to adopt;

“registrar” means a registrar of the Family Division of the High Court;

“regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955(c), the regular air force as defined by section 223 of the Air Force Act 1955(d), the Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service;

expressions which are used in the Act of 1975 have the same meaning as in that Act;

any reference to any rule or enactment shall be construed as a reference to that rule or enactment as amended, extended or applied by any other rule or enactment.

(2) In these Rules a rule referred to by number means the rule so numbered in these Rules and a form referred to by number means the form so numbered in Schedule 1 to these Rules, or a form substantially to the like effect, with such variations as the circumstances may require.

(3) The Interpretation Act 1889(e) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(a) 7 & 8 Eliz. 2. c. 5.
(d) 1955 c. 19.

(b) 1975 c. 72.
(e) 1889 c. 63.

(c) 1955 c. 18.

Extent and application of other rules

3.—(1) These Rules shall apply to proceedings in the High Court under the Act of 1958 or the Act of 1975.

(2) Subject to the provisions of these Rules and of any enactment, the Rules of the Supreme Court 1965(a) shall apply with the necessary modifications to proceedings in the High Court under the Act of 1958 or the Act of 1975.

(3) For the purposes of paragraph (2) any provision of these Rules authorising or requiring anything to be done shall be treated as if it were a provision of the Rules of the Supreme Court 1965.

(4) Unless the contrary intention appears, any power which by these Rules is to be exercised by the Court may be exercised by the registrar.

(5) Unless the contrary intention appears, these Rules shall apply to an application for a provisional adoption order as if a provisional adoption order were an adoption order, and such an application may, like an application for an adoption order, be disposed of in chambers.

COMMENCEMENT ETC., OF PROCEEDINGS

Originating summons

4.—(1) An application for an adoption order shall be made by originating summons in Form 1 issued out of the Principal Registry of the Family Division.

(2) The proposed adopter shall be the applicant and the child shall be the respondent.

Application for a serial number

5. If any person proposing to apply to the High Court for an adoption order desires that his identity shall be kept confidential he may, before taking out an originating summons, apply to the Senior Registrar of the Family Division for a serial number to be assigned to him for the purposes of the proposed application and a number shall be assigned to him accordingly.

EVIDENCE

Affidavit

6. Evidence in support of an application for an adoption order shall be given by means of an affidavit in Form 2 which shall be filed within 14 days after the issue of the originating summons.

Agreement

7.—(1) Any document signifying the agreement of a person to the making of an adoption order for the purposes of section 6 of the Act of 1958 may be in Form 3 and, if executed before the date of the applicant's affidavit referred to in rule 6, shall be exhibited to that affidavit.

(2) If the document is executed outside the United Kingdom it shall be sufficiently attested for the purposes of section 6(3) of the Act of 1958 if it is attested by any of the following persons:—

(a) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;

(a) S.I. 1965/1776 (1965 III, p. 4995).

- (b) a British consular officer;
- (c) a notary public; or
- (d) if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

Statement of facts in dispensation cases

8.—(1) Where the applicant intends to ask the Court to dispense with the agreement of a parent or guardian of the child on any of the grounds specified in section 12(2) of the Act of 1975 the request shall, unless otherwise directed, be made in the affidavit referred to in rule 6 or, if made subsequently, by notice to the registrar and there shall be exhibited to the affidavit two copies (or, as the case may be, attached to the notice three copies) of a statement of the facts on which the applicant intends to rely.

(2) Where a serial number has been assigned to the applicant under rule 5, the statement of facts supplied under paragraph (1) shall be framed in such a way as not to disclose the identity of the applicant.

Health

9.—(1) Subject to paragraph (2), there shall be exhibited to the affidavit referred to in rule 6—

- (a) a certificate of a fully registered medical practitioner as to the health of each applicant which may, if the applicant so desires, be in Form 4, and
- (b) a report by such a practitioner on the health of the child which may, if the applicant so desires, be in Form 5, and must be made, in the case of a child less than one year old on the date of the application, during the month preceding that date, or in any other case, during the period of six months preceding the date of the application.

(2) Paragraph (1) does not apply if the applicant or one of them is the mother or father of the child, or if the child has reached the upper limit of the compulsory school age.

Foreign law

10. An applicant for a provisional adoption order shall file, with the affidavit referred to in rule 6, expert evidence of the law of adoption in the country in which he is domiciled.

JURISDICTION

Preliminary examination of jurisdiction

11. If it appears to the Court that it—

- (a) may be required to dismiss the application pursuant to section 10(3) or 11(4) of the Act of 1975, or
- (b) may be precluded, by virtue of section 22(4) of the Act of 1975, from proceeding to hear the application,

the application shall not be proceeded with unless a judge gives directions as to the further conduct of the application.

THE GUARDIAN AD LITEM

Appointment of guardian ad litem

12.—(1) Subject to paragraph (2), the Official Solicitor shall, if he consents, be the guardian *ad litem* of the child for the purposes of the application and the applicant shall serve on him a copy of the summons.

(2) If the Official Solicitor does not consent to act as guardian *ad litem* or if the applicant desires that some other person should be appointed to act as guardian, the originating summons must ask for the appointment of a guardian *ad litem* and must be supported by an affidavit by the applicant stating the facts. The Court may thereupon appoint as guardian *ad litem* any person who appears to be suitably qualified and the applicant shall serve on him a copy of the summons.

(3) At the same time as the affidavit referred to in rule 6 is filed, or as soon thereafter as a guardian *ad litem* is appointed, the applicant shall serve a copy of the affidavit and of the documents exhibited to it on the guardian *ad litem*.

(4) Where the director of social services of a local authority is appointed as guardian *ad litem*, he may carry out his duties and appear before the Court personally or by any other officer of that authority who assists him in the exercise of his function.

Duties of a guardian ad litem

13.—(1) With a view to safeguarding the interests of the child before the Court the guardian *ad litem*, shall, so far as is reasonably practicable—

- (a) investigate all circumstances relevant to the proposed adoption, including the matters alleged in the applicant's affidavit and those specified in Schedule 2 to these Rules, and
- (b) perform such other duties as are specified in Schedule 2 or as the Court may direct.

(2) On completing his investigations the guardian *ad litem* shall make a report in writing to the Court.

(3) With a view to obtaining the directions of the Court on any particular matter the guardian *ad litem* may at any time make such interim report to the Court as appears to him to be necessary.

(4) Any report made to the Court under this rule shall be confidential.

NOTICES OF APPLICATION, HEARING, ETC.

Notice of application

14. On the filing of the affidavit referred to in rule 6, the registrar shall by notice inform any parent or guardian of the child who has signified his agreement to the making of an adoption order or who, by virtue of section 34A(1) of the Act of 1958, is not entitled to remove the child from the applicant's custody except with the leave of the Court, of the making of the application and of the prohibition upon removal of the child imposed by section 34(1) or 34A(1) of the Act of 1958, as the case may be.

Notice in cases where Court is asked to dispense with agreement

15.—(1) Where a request has been made to the Court under rule 8, the registrar shall, where practicable, by notice inform the parent or guardian of

the request to dispense with his agreement and shall send him a copy of the statement referred to in that rule.

(2) If the request is made by notice under rule 8, the registrar shall also send a copy of the notice and of the statement to the guardian *ad litem*.

Notice in serial number cases

16. Where a serial number has been assigned to the applicant under rule 5, no notice given or document supplied under rule 14 or 15 to a parent or guardian shall include any reference to the applicant otherwise than by that serial number.

Notice of hearing

17. When the guardian *ad litem* has made his report to the Court pursuant to rule 13(2), the registrar, after giving such directions (if any) as he thinks necessary, shall fix a date for the hearing of the application by a judge and shall serve notice of the date so fixed on the applicant and on the guardian *ad litem*.

Notices

18. When the date for the hearing has been fixed the registrar shall serve notice of the hearing on the following persons:—

- (a) each parent or guardian, not being an applicant, of the child;
- (b) any local authority having the powers and duties of a parent or guardian of the child by virtue of section 24 of the Children and Young Persons Act 1969(a);
- (c) any local authority in whom the parental rights and duties with respect to the child are vested, whether jointly or not, by virtue of section 2 of the Children Act 1948(b);
- (d) in the case of an application made after the coming into force of section 60 of the Act of 1975, any voluntary organisation in whom the parental rights and duties with respect to the child are vested, whether jointly or not, by virtue of that section;
- (e) unless otherwise directed, any person liable by virtue of any order or agreement to contribute to the maintenance of the child;
- (f) any local authority to whom the applicant has given notice of his intention to apply for an adoption order under section 3(2) of the Act of 1958;
- (g) any local authority or adoption society named in the application, or in any form of agreement, as having taken part in the arrangements for the adoption of the child;
- (h) any local authority or voluntary organisation in whose care the child is under section 1 of the Children Act 1948 or under or within the meaning of any other enactment;
- (i) unless otherwise directed, in a case where the applicant proposes to rely upon section 11(1)(b)(ii) of the Act of 1975, the spouse of the applicant;
- (j) any other person or body who in his opinion ought to be served with notice of the hearing of the application.

(a) 1969 c. 54.

(b) 1948 c. 43.

THE HEARING

Right of audience

19.—(1) On the hearing of the application, any person on whom notice is required to be served under rule 18 may attend and be heard on the question whether an adoption order should be made.

(2) A local authority or other body may be represented by any officer or servant of the authority or body duly authorised in that behalf.

Conduct of proceedings in serial number cases

20. If a serial number has been assigned to the applicant under rule 5, the proceedings shall be conducted with a view to securing that he is not seen by or made known to any person who is not already aware of his identity except with his consent.

Proof of date and place of birth of child

21.—(1) 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 his birth and the date so determined may be specified in the adoption order as the date of his birth.

(2) Where the registration district and sub-district, or the country, of birth of the child are not or is not proved to the satisfaction of the Court, then, if it is proved that he was born in England or Wales, or it appears probable that he was born within the United Kingdom, the Channel Islands or the Isle of Man, he may be treated as having been born in the registration district or sub-district in which the Court sits, and in any other case the particulars of the country of birth may be omitted from the adoption order.

Committal of child to care on refusal of adoption order

22.—(1) This rule applies where the Court refuses to make an adoption order in relation to a child under the age of 16 and proposes to make an order under section 17(1)(b) of the Act of 1975 committing the child to the care of a local authority.

(2) Where the local authority in whose area the child is resident has been served with a notice under rule 18 and is represented before the Court when the adoption order is refused, the Court may proceed forthwith to hear any representations from the local authority as to the making of an order under section 17(1)(b) or 17(2) of the Act of 1975.

(3) Where the local authority in whose area the child is resident—

- (a) has not been served with a notice under rule 18, or
- (b) is not represented before the Court when the order is refused, or
- (c) makes representations as to the making of an order under section 17(2) of the Act of 1975,

the registrar shall fix a time for the hearing of any representations from the local authority and from each parent of the child, and shall send notice thereof to the local authority, to the applicant, to each parent and to the guardian *ad litem* together with, in the case of a local authority on whom notice has not been served under rule 18, a copy of the notice served under that rule.

CUSTODY OF CHILDREN AWAITING ADOPTION

Applications for removal, return etc., of child

- 23.—(1) An application—
- (a) under section 34(1) or 34A(1), or 34A(2) of the Act of 1958 for leave to remove a child from the custody of a person who has applied for an adoption order, or a prospective adopter (as the case may be), or
 - (b) under section 30(1) of the Act of 1975 for an order for the return of a child who has been removed, in breach of section 34 or 34A of the Act of 1958, from the custody of any such person, or
 - (c) under section 30(2) of the Act of 1975 for an order directing a person not to remove the child from the custody of any such person, or
 - (d) under section 35(2) of the Act of 1958 for leave to give notice under section 35(1)(b) of the Act of 1958,
- shall be made in accordance with paragraph (2).
- (2) The application under paragraph (1) shall be made:—
- (a) if an application for an adoption order is pending by summons in those proceedings;
 - (b) if no such application is pending—
 - (i) by originating summons, or
 - (ii) if an application under this rule made by originating summons is pending, by summons in those proceedings.
- (3) The registrar, after giving such directions (if any) as he thinks necessary, shall fix a date for the hearing of the application in chambers by a judge.
- (4) When the date for the hearing has been fixed, the registrar shall serve a copy of the summons or originating summons—
- (a) in the case of an application made in pending adoption proceedings (or where adoption proceedings have subsequently been commenced) on the applicant in those proceedings, on the guardian *ad litem* and on every person on whom notice has been or will in due course be served under rule 18;
 - (b) in any other case, on any person against whom an order is sought under the application (including in the case of an application made pursuant to paragraph (1)(a) the prospective adopter), on the local authority to whom the prospective adopter has given notice under section 3 of the Act of 1958 and on any other person or body who in the registrar's opinion ought to be served with notice of the hearing of the application.
- (5) If in any application under this rule a serial number has been assigned to a person who proposes to apply for an adoption order or such a person applies to the registrar in that behalf before taking out an originating summons or a summons under this rule and a serial number is assigned to him accordingly:—
- (a) the documents to be served under paragraph (4) shall not disclose the identity of that person to any other person who is not already aware of that person's identity, and
 - (b) the proceedings on the application shall be conducted with a view to securing that that person is not seen by or made known to any other person concerned with the application who is not already aware of his identity, except with his consent.

(6) Where the application is determined, the registrar shall serve notice of the effect of the determination on all the persons served under paragraph (4).

(7) Where an application under paragraph (1)(a) or (d) is granted or an application under paragraph (1)(b) or (c) is refused, the judge may thereupon, if an adoption application has been made, treat the hearing of the application as the hearing of the application for an adoption order and refuse an adoption order accordingly.

ORDERS

Notice of order

24.—(1) Where an adoption order is made or refused, or an interim order is made, the registrar shall serve notice to that effect on all the persons on whom notice of the hearing was served under rule 18.

(2) Where, on the refusal of an adoption order, any order under section 17 of the Act of 1975 is made, the notice under paragraph (1) shall include particulars of the order.

(3) The registrar shall serve notice of an adoption order on any court in Great Britain which appears to him to have made any such order as is referred to in section 8(3) of the Act of 1975.

Form and transmission of orders, etc.

25.—(1) Within seven days after an adoption order has been drawn up the registrar shall send a copy to the Registrar General and to the applicant.

(2) Within seven days after an interim order has been drawn up the registrar shall send a copy of the order to the applicant.

(3) Nothing in paragraph (1) or (2) shall prevent the registrar from omitting from the copy of any order sent to the applicant any information which in his opinion need not appear in the copy of the order.

(4) If the order is made by the High Court sitting in Wales in respect of a child who was born in Wales or who is treated as so born under rule 21(2) and the adopter so requests before the order is drawn up, the particulars supplied for the purposes of the direction to the Registrar General which is required by section 21(1) of the Act of 1958 shall be specified in the order both in English and in Welsh, and, in the case of any discrepancy between the English and Welsh text of any such particulars, the English text shall prevail.

Copies

26. The registrar shall not supply a copy of any order made under the Act of 1958 or the Act of 1975 or any previous enactment relating to adoption except:—

- (a) in accordance with the provisions of rule 25 or 29;
- (b) at the request of the Registrar General;
- (c) at the request of the applicant or one of the applicants; or
- (d) on the application of any other person under an order of a judge.

Amendment and revocation of adoption orders

27.—(1) An application under section 24 of the Act of 1958 for the amendment of an adoption order or the revocation of a direction to the Registrar

General, or under section 26 of the Act of 1958 (or section 1(1) of the Adoption Act 1960(a)) for the revocation of an adoption order, may be made *ex parte* in the first instance in the proceedings in which the adoption order was made, but the Court may require notice of the application to be served on such persons as it thinks fit.

(2) Where the application is granted, the registrar shall send to the Registrar General a notice specifying the amendments or informing him of the revocation, and shall give sufficient particulars of the order to enable the Registrar General to identify the case.

MISCELLANEOUS

Further proceedings after interim order

28.—(1) Where the Court has made an interim order, the registrar shall, not less than one month before the expiration of the period specified in the order, fix a time, if no time has previously been fixed, for the further hearing of the application for an adoption order.

(2) When the time for a further hearing of an application is fixed, the registrar shall, unless otherwise directed, serve notice of the hearing on all those persons who were notified of the earlier hearing (including the applicant and the guardian *ad litem*).

Disclosure of information

29. Any information obtained by any person in the course of, or relating to, proceedings under the Act of 1958 or the Act of 1975 or under any previous enactment relating to adoption shall be treated as confidential and shall be disclosed if, but only if—

- (a) the disclosure is necessary for the proper exercise of his duties, or
- (b) the information is requested—
 - (i) by a court or public authority (whether within Great Britain or not) having power to authorise an adoption, for the purpose of the discharge of its duties in that behalf, or
 - (ii) by the Registrar General, or by a person authorised in writing by him, where the information requested relates only to the identity of any local authority or adoption society which took part in the arrangements for the placing of the infant or child in the care and possession or actual custody of the applicant with a view to adoption, and of any local authority which was notified of the applicant's intention to apply for an adoption order in respect of an infant or a child, or, as the case may be, is to effect that no such body took part in such arrangements, or was so notified, or
 - (iii) by a person who is authorised in writing by or on behalf of the Secretary of State to obtain the information for the purposes of research.

Custody and inspection of documents

30.—(1) All documents relating to proceedings under the Act of 1958 or the Act of 1975 or under any previous enactment relating to adoption shall, while they are in the custody of the Court, be kept in a place of special security.

(2) Save as required or authorised by any provision of these Rules or of any enactment, no document filed or lodged with the Court in proceedings under the Act of 1958 or the Act of 1975 or under any previous enactment relating to adoption shall be open to inspection by any person, and no copy of any such document, or of any extract from any such document, shall be taken by or issued to any person.

Service of documents

31. Unless otherwise directed, any document under these Rules may be served:—

- (a) on a corporation or body of persons, by delivering it at, or sending it by post to, the registered or principal office of the corporation or body;
- (b) on any other person, by delivering it to him, or by sending it by post to him at his usual or last known address.

Revocation of Rules and transitional provisions

32. The Adoption (High Court) Rules 1971(a), are hereby revoked except to such extent as may be necessary for giving effect to the transitional provisions and savings in the Act of 1975 or in any order made under section 108(2) of the Act of 1975, or, subject thereto, if and in so far as the more convenient disposal of an application pending on the date of commencement of these Rules so requires.

Dated 4th October 1976.

Elwyn-Jones, C.

SCHEDULE 1

Rule 4(1)

Form 1

ORIGINATING SUMMONS FOR AN ADOPTION ORDER OR A
PROVISIONAL ADOPTION ORDERIn the High Court of Justice No. of 19
Family Division

IN THE MATTER OF The Adoption Act 1958

and

IN THE MATTER OF The Children Act 1975

and

IN THE MATTER OF(1) a child.

(1)
Enter the name(s) and
surname by which the child
is to be known if adopted.Let of attend at the Royal
Courts of Justice, Strand, London, WC2A 2LL, on a date to be fixed
for the hearing of the application of of
for an order:(2)
Delete if the Official
Solicitor has consented to
act as the guardian *ad*
litem.[1. That a guardian *ad litem* be appointed for the purpose of safe-
guarding the interests of the said](2)[2. That the applicant do adopt [*or* be granted a provisional adoption
order in respect of] the said]

[3. That the costs of this application be provided for].

Dated the day of 19.....

This summons was taken out by of
solicitor for the above-named

Rule 6

Form 2

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR AN ADOPTION ORDER OR A PROVISIONAL ADOPTION ORDER(1)

[Every paragraph must be completed or, if it is not applicable, deleted] [Heading as in Form 1]

I/We, of wishing to adopt [or obtain a provisional adoption order in respect of]..... (2) a child under the Adoption Act 1958 and the Children Act 1975, hereby make oath and say that the particulars set out in paragraphs 1 to of this affidavit are true:—

PART I

Particulars of the applicant(s)

- 1. Name of (first) applicant in full.....
- Address(3).....
- Occupation
- Date of Birth.....
- Relationship (if any) to the child
- [Name of second applicant in full.....
-
- Address(3)
- Occupation
- Date of Birth
- Relationship (if any) to the child.....]

2. I am/We are/One of us [namely] is domiciled in England and Wales/Scotland/Northern Ireland/the Channel Islands/the Isle of Man [or I am/We are not domiciled in England and Wales or Scotland].

3. I am unmarried/a widow/widower/divorced [or We are married to each other and our marriage certificate (or other evidence of marriage) is exhibited to this affidavit] [or I am applying alone as a married person and can satisfy the court that](4).

[4. I am applying alone for an adoption order/a provisional adoption order in respect of my own child and can satisfy the court that the other natural parent](5).

[5. A certificate as to my/our health, signed by a fully registered medical practitioner, is exhibited to this affidavit](6).

General. The side notes to this Form are for guidance only and need not appear as part of the affidavit.

(1) Documents referred to in this affidavit should be separately exhibited.

(2) State the first name(s) and surname as shown in any certificate referred to in paragraph 6. Otherwise state the first name and surname by which the child was known before being placed for adoption.

(3) State the address where the applicant has his home and the place (if different) where documents may be served on him.

(4) A married applicant can apply alone only if he or she can satisfy the court that his or her spouse cannot be found, or that they have separated and are living apart and that the separation is likely to be permanent, or that by reason of physical or mental ill health his or her spouse is incapable of making an application for an adoption order. Any documentary evidence (including death certificate where relevant) on which the applicant proposes to rely should be exhibited to the affidavit. The name and address (if known) of the other spouse should be supplied.

(5) State the reason to be relied upon (that the other natural parent is dead, or cannot be found, or that there is some other reason, which should be specified, justifying his or her exclusion). Documentary evidence, e.g., a death certificate should be exhibited to the affidavit where appropriate.

(6) A separate medical certificate is required in respect of each applicant. There is an official form (Form 4) which may be used for this purpose. No certificate, however, need be exhibited to the affidavit if the child is the child of the applicant or either of them, or has reached the upper limit of the compulsory school age.

PART II

Particulars of the child

(7) If a child has previously been adopted, a certified copy of the entry in the Adopted Children Register should be exhibited to the affidavit and not a certified copy of the original entry in the Registers of Births.

(8) Where a certificate is not exhibited to the affidavit, state the place including the country of birth if known.

(9) There is an official form (Form 5) which may be used for this purpose. No certificate need be exhibited to the affidavit if the child is the child of the applicant or one of them, or has reached the upper limit of the compulsory school age.

(10) If the child is less than one year old on the date of the originating summons the report should have been made during the month preceding that date. If the child is one year old or more on that date, the report should have been made during the period of six months before that date.

(11) If the child has previously been adopted, state the names of his adoptive parents and not those of his natural parents.

(12) State mother's name.

(13) State name of father, if known.

(14) State particulars of any person appointed by deed or will in accordance with the provisions of the Guardianship of Infants Acts 1886 and 1925 or the Guardianship of Minors Act 1971, or by a court of competent jurisdiction to be a guardian. Do not include any person who has custody of the child only: under section 57(1) of the Act of 1958 (as amended by paragraph 39(d) of Schedule 3 to the Act of 1975), a father of an illegitimate child who has custody of the child under section 9 of the Guardianship of Minors Act 1971 (or section 2 of the Illegitimate Children (Scotland) Act 1930) is a guardian, so that his agreement to the adoption is required unless dispensed with, but his identity should be given at paragraph 8 above.

6. The child is of the sex and is not and has not been married. He/She was born on the day of 19..... and is the person to whom the birth/adoption certificate exhibited to this affidavit(7) relates [or was born on or about the day of 19....., in](8).

[7. A report on the health of the child, made by a fully registered medical practitioner on the day of 19..... is exhibited to this affidavit](9) (10).

8. Parentage, etc. The child is the child(11) of(12) whose last known address was..... [or deceased] and (13) [or deceased].

[9. The guardian(s) of the child (other than the mother or father of the child) is/are (and..... of)](14).

[10. *Parental Agreement.* A document/documents signifying the agreement of the said: (15) [and] to the making of an adoption order/provisional adoption order in pursuance of my/our application is/are exhibited to this affidavit].

(15) State either in paragraph 10 or 11 the names of the persons mentioned in paragraphs 8 and 9 except that in the case of an illegitimate child the father of the child should be stated only if he has custody of the child by virtue of an order under section 9 of the Guardianship of Minors Act 1971, or under section 2 of the Illegitimate Children (Scotland) Act 1930.

[11. I/We request the judge to dispense with the agreement of: on the ground/s that.....(15)(16) [and] and there are exhibited to this affidavit two copies of a statement of the facts on which I/we intend to rely].

(16) State one or more of the grounds set out in section 12(2) of the Act of 1975.

[12. *Care, etc.* The Council (or) of has/have the powers and duties of a parent or guardian of the child [or the parental rights and duties with respect to the child]](17).

(17) This paragraph should be completed where some person or body has the powers and duties of a parent or guardian of the child by virtue of section 24 of the Children and Young Persons Act 1969 or has vested in it or them the parental rights and duties with respect to the child under section 2 of the Children Act 1948, or section 60 of the Act of 1975.

[13. *Maintenance.* of is liable by virtue of an order made by the court at on the day of 19..... (or by an agreement dated the day of 19.....) to contribute to the maintenance of the child](18).

(18) This paragraph should be completed where some person or body is liable to contribute to the maintenance of the child under a court order or an agreement.

14. *Proposed names.* If an adoption order/a provisional adoption order is made in pursuance of this application, the child is [until adopted under the law or within the country of my/our domicile] to be known by the following names:—

Surname Other names

(19) Under section 3(1) of the Act of 1958, an adoption order cannot be made unless the child has been continuously in the actual custody of the applicant during the three months before the order is made; this is modified to some extent by section 12(3) in the case of a married couple where both are or one is living outside Great Britain (so that a continuous period of at least three months' actual custody with one applicant which includes a period of one month with the other will suffice). In this case the relevant facts should be stated.

PART III

General

15. The child was received into my/our actual custody on the day of 19....., and has been continuously in my/our actual custody since that date (or as appropriate)(19).

16. The child has/has not had his home with me/us for the five years preceding the date of this application.

[17. I/We/One of us (namely notified the Council on the day of 19....., of my/our intention to apply for an adoption order/provisional adoption order in respect of the child](20).

(20) Notice does not have to be given if the applicant or one of the applicants is a parent of the child or if at the time of the hearing the child will have reached the upper limit of the compulsory school age.

(21)

The court cannot proceed with the application if a previous adoption application made by the same person in relation to the child was refused, unless one of the conditions in section 22(4) of the Act of 1975 is satisfied.

18. No proceedings relating in whole or in part to the child have been completed or commenced in any court in England or Wales or elsewhere [except]
]**(21)(22)(23)**.

(22)

Where the application is made by a married couple of whom one is a parent and the other is a step-parent of the child, or by a step-parent of the child alone, the court must under section 10(3) and section 11(4) of the Act of 1975 dismiss the application if it considers that the matter would be better dealt with under section 42 (orders for custody etc. in matrimonial proceedings) of the Matrimonial Causes Act 1973.

19. I/We have not received or given any reward or payment for, or in consideration of, the adoption of the child or for any agreement to the making of the adoption order/provisional adoption order [except as follows:—
]**(24)**.

20. As far as I/we know no person or body has taken part in the arrangements for placing the child in my/our actual custody [except]**(25)**.

[21. For the purpose of this application reference may be made to]**(26)**.

(23)

State the nature of the proceedings and the date and effect of any orders or judgments.

[22. I/We desire that my/our identity should be kept confidential, and the serial number of this application is]**(27)**.

(24)

Any such payment or reward is illegal except payment to an adoption society or local authority in respect of their expenses incurred in connection with the adoption.

[23. I/We intend to adopt the child under the law of or within....., which is the country of my/our domicile, and evidence as to the law of adoption in that country is filed with this affidavit]**(28)**.

[24. I/We desire to remove the child from Great Britain for the purpose of adoption].

(25)

State the name of the local authority, adoption society or individual who has taken part in the arrangements for placing the child in the actual custody of the applicant with a view to his adoption.

I/We accordingly apply for an adoption order/a provisional adoption order in respect of the child.

Sworn, etc.

This affidavit is filed on behalf of the applicant(s).

(26)

Where the applicant or one of the applicants is a parent of the child, or a relative as defined by section 57(1) of the Act of 1975, no referee need be named.

(27)

If the applicant wishes his identity to be kept confidential the serial number obtained under rule 5 of the Adoption (High Court) Rules 1976 should be given.

(28)

Any accompanying affidavit must be sworn by a person who is suitably qualified on account of his knowledge or experience to give evidence as to the law concerned.

Rule 7(1)

Form 3

AGREEMENT TO AN ADOPTION ORDER OR A
PROVISIONAL ADOPTION ORDER

[Heading as in Form 1]

Whereas an application is to be/has been made by/
and [or under the serial number],(1)
for an adoption order/a provisional adoption order in respect of.....
.....(2) a child:

[And whereas the child is the person to whom the birth certificate(3)
now produced and shown to me marked "A" relates:](4)

And whereas the child is not less than six weeks old:

I, the undersigned
of.....
being a parent/guardian(5) of the child hereby state as follows:—

1. I understand that the effect of an adoption order/a provisional
adoption order will be to deprive me permanently of the parental rights
and duties relating to the child and to vest them in the applicant(s); and
in particular I understand that, if an order is made, I shall have no right
to see or get in touch with the child or to have him/her returned to me.

2. I further understand that the Court cannot make an adoption order/
a provisional adoption order without the agreement of each parent or
guardian of the child unless the Court dispenses with an agreement on the
ground that the person concerned—

- (a) cannot be found or is incapable of giving agreement, or
- (b) is withholding agreement unreasonably, or
- (c) has persistently failed without reasonable cause to discharge the
parental duties in relation to the child, or
- (d) has abandoned or neglected the child, or
- (e) has persistently ill-treated the child, or
- (f) has seriously ill-treated the child and the rehabilitation of the
child within the household of the parent or guardian is unlikely.

3. I further understand that, when the application for an adoption
order/provisional adoption order is heard, this document may be used
as evidence of my agreement to the making of the order unless I inform
the Court that I no longer agree(6).

4. I hereby freely, and with full understanding of what is involved,
agree unconditionally to the making of an adoption order/a provisional
adoption order in pursuance of the application.

(1) Insert either the name(s)
of the applicant(s) or the
serial number assigned to
the applicant(s) for the
purpose of the application.

(2) Insert the name(s) and
surname as known to the
person giving agreement.

(3) If the child has pre-
viously been adopted, a
certified copy of the entry
in the Adopted Children
Register should be at-
tached and not a certified
copy of the original entry
in the Registers of Births.

(4) Where two or more
forms of agreement are
supplied to the court at
the same time they may
both or all refer to a cer-
tificate attached to one of
the forms of agreement.

(5) The father of an illegi-
timate child is not a
parent for this purpose,
but is a guardian if he has
custody of the child by
virtue of an order under
section 9 of the Guardi-
anship of Minors Act 1971,
or under section 2 of the
Illegitimate Children (Scot-
land) Act 1930: "guard-
ian" also means a per-
son appointed by deed
or will in accordance with
the provisions of the
Guardianship of Infants
Acts 1886 and 1925, or the
Guardianship of Minors
Act 1971, or by a court of
competent jurisdiction, to
be the guardian of the
child.

(6) Notice will be given of
the making of the applica-
tion and of the Court by
which it is to be heard.
After the making of
the application the agree-
ing parent or guardian
cannot remove the child
from the custody of the
applicant(s) except with
the leave of the court.

(7) Enter the name of any local authority, adoption society or person who is known to have arranged, or to have taken part in the arrangements, for the child to be placed in the actual custody of the applicant(s).

5. As far as I know, no other person or body has taken part in the arrangements for placing the child in the actual custody of the applicant(s) [except of.....](7).

(Signature)

(8) In England or Wales the document should be signed before a justice of the peace, a duly authorised county court officer or a justices' clerk and in Scotland before a justice of the peace or a sheriff. In Northern Ireland it should be signed before a justice of the peace. Outside the United Kingdom it should be signed before a person authorised by law in the place where the document is executed to administer an oath for any judicial or legal purpose, a British Consular officer, a notary public or, if the person executing the document is serving in the regular forces of the Crown an officer holding a commission in any of those forces.

This form, duly completed, was signed by the said before me (8) at on the day of 19.....

(Signature)

(Address).....

(Description)

WARNING: It is an offence to receive or give any reward or payment for, or in consideration of, the adoption of the child or for agreeing to the making of an adoption order or provisional adoption order, other than a payment to a local authority or adoption society for their expenses incurred in connection with the adoption.

Rule 9(1)(a)

Form 4

MEDICAL CERTIFICATE AS TO THE HEALTH OF APPLICANT

I examined
 on 19....., and have formed the opinion that he is
 physically, mentally and emotionally suitable to adopt a child.

Signature..... Date.....

Qualifications

Address.....

Rule 9(1)(b)

Form 5

MEDICAL REPORT ON HEALTH OF CHILD

This form is for a medical report on a child who may be adopted. The report is for the benefit of the adopters and the court. In order that the adopters may benefit fully from the report, it is important that the certifying doctor should explain to the adopters the nature and extent of any disability or abnormality disclosed by the examination which might affect their decision whether or not to adopt the child.

Child's name..... Date of Birth.....

Sex..... Weight..... Height.....

A. General condition

Skin

Eyes (including vision)

Ears (including hearing)

Nose and throat

Speech

Cardio-vascular system

Respiratory system

Alimentary system

Genito-urinary system (including examination of urine for sugar)

Skeletal and articular system (including examination for congenital dislocation of hip)

Nervous system (including fits)

Lymphatic system

Any other comments

Is the child physically normal having regard to his age?

B. Are there any items in the child's history or examination which suggest that he may be mentally abnormal having regard to his age?

C. Particulars of any illnesses from which the child has suffered

D. If known—

Weight at birth (if child is under one year of age)

Details of birth, including result of mother's serological tests for syphilis

Particulars, with dates, of vaccination or immunization against:—

Tuberculosis (state result of Mantoux test or whether child has been successfully vaccinated with B.C.G. vaccine)

Smallpox

Diphtheria

Whooping cough

Poliomyelitis

Tetanus (active)

Any other disease

E(i) (*Result of serological test for syphilis of the child's blood or the mother's blood carried out six weeks or later after the child's birth; either test (a) or tests (b)(i) and (ii) may be carried out when the child is at least six weeks old. If test (b)(i) or (ii) is positive, test (a) must also be carried out*)

(a) Result of a suitable serological test of the child's blood for syphilis (please specify test)

(b) Result of suitable serological tests of the mother's blood for syphilis—

(i) Reagin (please specify test)

(ii) Verification (please specify test)

(ii) (*To be completed in the case of a child over six complete days (excluding the day of his birth) and under two years old at the time of the test*)

Result of test of the child's blood for the purpose of estimating the level of phenylalanine therein

F. I examined the child on the day of
19..... and I have informed the adopters of the state of health of the child disclosed by the examination.

Signature..... Date.....

Qualifications

Address.....

.....

SCHEDULE 2

Rule 13(1)

PARTICULAR DUTIES OF THE GUARDIAN AD LITEM

1. The guardian *ad litem* shall interview the applicant and shall ascertain:—
 - (a) why the applicant wishes to adopt the child;
 - (b) whether the applicant understands the nature of an adoption order and, in particular, that the order, if made, will render him responsible for the maintenance and upbringing of the child;
 - (c) in the case of an application by the mother or father of the child alone, what reason there is justifying the exclusion of the other natural parent;
 - (d) in the case of an application by one only of a married couple, why the other spouse does not join in the application;
 - (e) in the case of an application by a married couple, the state of the marriage, and, in particular, whether it has the stability which is likely to provide a sound basis for a secure parental relationship with an adopted child;
 - (f) such other information, including an assessment of the applicant's personality and, where appropriate, that of the child, as has a bearing on the mutual suitability of the applicant and the child and on the ability of the applicant to bring up the child;
 - (g) whether the applicant suffers or has suffered from any serious illness and whether there is any history of tuberculosis, epilepsy or mental illness in the applicant's family;
 - (h) particulars of all members of the applicant's household and their relationship (if any) to the applicant;
 - (i) particulars of the accommodation in the applicant's home and the condition of the home;
 - (j) the means of the applicant and, where appropriate, the rights to or interests in property (under dispositions already made) which the child stands to obtain if adopted;
 - (k) the applicant's religious persuasion, if any;
 - (l) whether any person specified in the application as a person to whom reference may be made is a responsible person and whether he recommends the applicant with or without reservations.
2. Except in the case of an application for a provisional adoption order, the guardian *ad litem* shall inform the Court if it appears to him that the applicant or both applicants may not be domiciled in a part of the United Kingdom, the Channel Islands or the Isle of Man.
3. The guardian *ad litem* shall ascertain and inform the applicant:—
 - (a) whether the child has been baptised and, if so, the date and place of baptism;
 - (b) what treatment the child has received with a view to immunising him against disease;
 - (c) what, if any, rights to or interests in property the child stands to retain or lose if adopted;
 - (d) whether an insurance policy for the payment on the death of the child of money for funeral expenses has been effected.
- 4.—(1) The guardian *ad litem* shall, as soon as is reasonably practicable, ascertain whether the child is able to understand the nature of an adoption order.
 - (2) If, in the guardian's opinion, the child is able to understand the nature of an adoption order, the guardian shall inform the Court.

(3) The guardian shall, so far as practicable, ascertain the wishes and feelings of the child regarding the decision.

5.—(1) The guardian *ad litem* shall interview either in person or by an agent appointed by him for the purpose every individual to whom notice is required to be given under rule 18 or who appears to him to have taken part in the arrangements for the adoption of the child.

(2) If any such individual is under a disability the guardian shall inform the Court.

6.—(1) The guardian *ad litem* shall obtain from every person, not being an individual to whom notice is required to be given under rule 18, such information concerning the child as they have in their possession and which they consider might assist the Court in deciding whether or not the child should be adopted by the applicant.

(2) Where such information is given in the form of a written report, the guardian shall append it to his own report to the Court.

7. The guardian *ad litem* shall ascertain who has had actual custody of the child throughout his life, and for what period or periods.

8. The guardian *ad litem* shall ascertain that every agreement to the making of an adoption order in pursuance of the application is freely and unconditionally given and with full understanding of what is involved.

9. Where either parent of the child is dead, the guardian *ad litem* shall inform the Court if he learns of any relation of the deceased parent who wishes to be heard by the Court on the question whether an adoption order should be made.

10. Where the child is illegitimate but the putative father is not the guardian of the child or is not liable to contribute to his maintenance by virtue of an order or enactment, the guardian *ad litem* shall inform the Court if he learns of any person, claiming to be the father, who wishes to be heard by the Court on the question whether an adoption order should be made.

11. The guardian *ad litem* shall inform the Court if he learns of any person who is or has been married to the mother or father of the child, and who is not mentioned in the applicant's affidavit, but to whom notice may have to be given under rule 18.

12. The guardian *ad litem* shall inform the Court if he learns of any other person or body who wishes or ought in his opinion to be heard by the Court on the question whether an adoption order should be made.

13. Where appropriate the guardian *ad litem* shall endeavour to obtain a report on the applicant's home and living conditions from a suitable agency in any country outside Great Britain in which the applicant is or has been living or resident.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

1. These Rules replace with amendments the Adoption (High Court) Rules 1971. In addition to drafting changes, the rules make the amendments rendered necessary by the changes in statute law effected by the provisions of the Children Act 1975 which are in force on the date of commencement of the rules.

2. The main alterations of substance in the rules are as follows:—

- (1) directions by the judge for the further conduct of the application will be required where it may be that an adoption application should be dismissed on the ground that custody proceedings under section 42 of the Matrimonial Causes Act 1973 would be more appropriate (rule 11(a));
- (2) provision is made in the rules relating to the determination of the place and date of birth of the child (rule 21);
- (3) provision is made (for cases where an adoption order is refused and the court proposes to commit the child to the care of a local authority) for the hearing of any representations from the local authority concerned (rule 22);
- (4) the rules provide for the making and conduct of applications to remove, to restrain the removal of or for the return of a child who is the subject of an actual or proposed adoption application (rule 23);
- (5) the rules permit the identity of the local authority or adoption agency which was involved in the adoption proceedings to be disclosed from court records at the request of the Registrar General or any one authorised by him (rule 29(b)(ii)).

3. Apart from changes rendered necessary by the new legislation, the main change in the Forms is that forms are no longer specially prescribed for a notice of application, or of hearing or of a further hearing following an interim order.

4. There are some changes in the duties which are prescribed for the guardian *ad litem*, particularly at paragraphs 1(e), 2, 7 and 11 of Schedule 2.

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