

Adoption of Children Act, 1926.

[16 & 17 GEO. 5. CH. 29.]

ARRANGEMENT OF SECTIONS.

A.D. 1926;

Section.

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CHAPTER 29.

An Act to make provision for the adoption of infants. A.D. 1926.
[4th August 1926.] —

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Upon an application in the prescribed manner by any person desirous of being authorised to adopt an infant who has never been married, the Court may, subject to the provisions of this Act, make an order (in this Act referred to as "an adoption order") authorising the applicant to adopt that infant. Power to make adoption orders.

(2) A person so authorised to adopt the infant and an infant authorised to be adopted are in this Act referred to as an "adopter" and an "adopted child" respectively, and "infant" means a person under the age of twenty-one.

(3) Where an application for an adoption order is made by two spouses jointly, the Court may make the order authorising the two spouses jointly to adopt, but save as aforesaid no adoption order shall be made authorising more than one person to adopt an infant.

2.—(1) An adoption order shall not be made in any case where— Restrictions on making adoption orders.

(a) the applicant is under the age of twenty-five years, or

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- (b) the applicant is less than twenty-one years older than the infant in respect of whom the application is made :

Provided that, where the applicant and the infant are within the prohibited degrees of consanguinity, it shall be lawful for the court, if it thinks fit, to make the order notwithstanding that the applicant is less than twenty-one years older than the infant.

(2) An adoption order shall not be made in any case where the sole applicant is a male and the infant in respect of whom the application is made is a female unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

(3) An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the infant in respect of whom the application is made or who has the actual custody of the infant or who is liable to contribute to the support of the infant :

Provided that the Court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the infant or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the infant, either has persistently neglected or refused to contribute to such support or [is] a person whose consent ought, in the opinion of the court and in all the circumstances of the case, to be dispensed with.

(4) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them :

Provided that the court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving such consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(5) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in

England or Wales or in respect of any infant who is not
a British subject and so resident. A.D. 1926.

3. The Court before making an adoption order shall
be satisfied—

Matters
with respect
to which
Court to be
satisfied.

(a) that every person whose consent is necessary
under this Act and whose consent is not dispensed
with has consented to and understands the
nature and effect of the adoption 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; and

(b) that the order if made will be for the welfare of
the infant, due consideration being for this
purpose given to the wishes of the infant, having
regard to the age and understanding of the
infant; 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.

4. 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 adopted child such provision (if any) as
in the opinion of the Court is just and expedient.

Terms and
condition of
order.

5.—(1) Upon an adoption order being made, all
rights, duties, obligations and liabilities of the parent or
parents, guardian or guardians of the adopted child, in
relation to the future custody, maintenance and educa-
tion of the adopted child, including all rights to appoint
a guardian or 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
though the adopted child was a child born to the adopter
in lawful wedlock, and in respect of the same matters
and in respect of the liability of a child to maintain its

Effect of
adoption
order.

A.D. 1926. — parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock :

Provided that, in any case where two spouses are the adopters, such spouses shall in respect of the matters aforesaid and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother respectively.

(2) An adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition, whether occurring or made before or after the making of the adoption order, or confer on the adopted child any right to or interest in property as a child of the adopter, and the expressions "child," "children" and "issue" where used in any disposition whether made before or after the making of an adoption order, shall not, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child.

(3) Where an adopted child or the spouse or issue of an adopted child takes any interest in real or personal property under a disposition by the adopter, or where an adopter takes any interest in real or personal property under a disposition by an adopted child or the spouse or issue of an adopted child, any succession, legacy or other duty which becomes leviable in respect thereof shall be payable at the same rate as if the adopted child had been a child born to the adopter in lawful wedlock.

(4) For the purposes of this section "disposition" means an assurance of any interest in property by any instrument whether inter vivos or by will including codicil.

(5) For the purposes of the enactments relating to friendly societies, collecting societies and industrial assurance companies, which enable such societies and companies to insure money to be paid for funeral

expenses, and which restrict the persons to whom money may be paid on the death of a child under the age of ten, the adopter shall be deemed to be the parent of the child; and where before [the adoption order was made any such insurance had been effected by the natural parent of the child, the rights and liabilities under the policy shall by virtue of the adoption order be transferred to the adopter, and the adopter shall, for the purposes of the said enactments, be treated as the person who took out the policy.

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6.—(1) Upon any application for an adoption order, the Court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Act) giving the custody of the infant 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 and education and supervision of the welfare of the infant and otherwise as the Court may think fit.

Power to
make
interim
orders.

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

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

Power to
make
subsequent
order in
respect of
infant
already
subject to an
order.

8.—(1) The Court having jurisdiction to make adoption orders under this Act shall be the High Court or, at the option of the applicant, but subject to any rules under this section, any county court or any Court of summary jurisdiction within the jurisdiction of which either the applicant or the infant resides at the date of the application for the adoption order.

Jurisdiction
and pro-
cedure.

(2) Rules in regard to any matter to be prescribed under this Act and directing the manner in which applications to the Court are to be made and dealing

A.D. 1926. — generally with all matters of procedure and incidental matters arising out of this Act and for carrying this Act into effect shall be made by the Lord Chancellor.

Such rules may provide for applications for adoption orders being heard and determined otherwise than in open Court, and where the application is made to a court of summary jurisdiction, for the hearing and determination thereof in a juvenile court as defined by the Children Act, 1908.

8 Edw. 7.
c. 67.

(3) For the purpose of any application under this Act and subject to any rules under this section, the Court shall appoint some person or body to act as guardian ad litem of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the Court, and where the body so appointed is a local authority the Court may authorise the authority to incur any necessary expenditure, and may direct out of which fund or rate such expenditure is to be defrayed, but nothing in this section shall be deemed to authorise the Court to appoint a local authority to act as guardian ad litem of an infant except with the consent of that authority.

Restriction
on pay-
ments.

9. It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the Court to receive any payment or other reward in consideration of the adoption of any infant under this Act or for any person to make or give or agree to make or give to any adopter or to any parent or guardian any such payment or reward.

Provisions
as to
existing
de facto
adoptions.

10. Where at the date of the commencement of this Act any infant is in the custody of, and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any de facto adoption, and has for a period of not less than two years before such commencement been in such custody, and been so brought up, maintained and educated, the Court may, upon the application of such person or spouses, and notwithstanding that the applicant is a male and the infant a female, make an adoption order authorising him, her or them to adopt the infant without requiring the consent of any parent or guardian of the infant to be obtained, upon being satisfied that in all the circumstances of the case it is just and equitable

and for the welfare of the infant that no such consent should be required and that an adoption order should be made. A.D. 1926. —

11.—(1) The Registrar-General shall establish and maintain at the General Register Office a register to be 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. Adopted
children
register

(2) Every adoption order shall contain a direction to the Registrar-General to make in the Adopted Children Register an entry recording the adoption in the form set out in the Schedule hereto.

(3) If upon any application for an adoption order there is proved to the satisfaction of the Court—

- (a) the date of the birth of the infant; and
- (b) the identity of the infant with a child to which any entry or entries in the Registers of Births relates;

the adoption order shall contain a further direction to the Registrar-General to cause such birth, entry or entries in the Registers of Birth, to be marked with the word “Adopted,” and to include in the entry in the adoption register recording the adoption the date stated in the order of the adopted child’s birth in the manner indicated in the Schedule hereto.

(4) The prescribed officer of the Court shall cause every adoption order to be communicated in the prescribed manner to the Registrar-General, and upon receipt of such communication the Registrar-General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Registers of Birth 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 sealed or stamped with the seal of the General Register Office shall, without any further or other proof of such entry—

- (a) where the entry does not contain any record of the date of the birth of the adopted child be received as evidence of the adoption to which the same relates; and
- (b) where the entry contains a record of the date of the birth of the adopted child shall be received

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not only as evidence of the adoption to which the same relates but also as evidence of the date of the birth of the adopted child to which the same relates in all respects as though the same were a certified copy of an entry in the Registers of Births.

(6) The Registrar-General shall cause an index of the Adopted Children Register to be made and kept in the General Register 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 Acts, 1836 to 1901, in respect of searches in other indexes kept in the General Register Office, and in respect of the supply from such office of certified copies of entries in the certified copies of the Registers of Births, Deaths and Marriages.

(7) The Registrar-General 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 connexion between any entry in the register of births which has been marked "Adopted" pursuant to this Act 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-General furnish any person with any information contained in or with any copy or extract from any such registers or books.

(8) Regulations made by the Registrar-General under the Births and Deaths Registration Acts, 1836 to 1901, may make provision as to the duties to be performed by Superintendent Registrars and Registrars of Births and Deaths in the execution of this Act.

Short title,
commence-
ment and
extent.

12.—(1) This Act may be cited as the Adoption of Children Act, 1926.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-seven.

(3) This Act shall not apply to Scotland or Northern Ireland.

SCHEDULE.

Section 11.

1.	2.	3.	4.	5.	6.	7.	8.
No. of Entry.	Date of Entry.	Name of Adopted Child. (Enter Name as stated in Adoption Order.)	Sex of Adopted Child. (Enter Sex as stated in Adoption Order.)	Name and Surname, Address and Occupation of Adopter or Adopters. (Enter name, address and Occupation as stated in Adoption Order.)	Date of Birth of Child. (Enter date of Birth (if any) directed by the Adoption Order to be entered, but otherwise no entry.)	Date of Adoption Order and Description of Court by which made. (Entry to be made as appearing in the Adoption Order.)	Signature of Officer deputed by Registrar-General to attest the Entry.

A.D. 1926.

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