

PART 2

ADOPTION ORDERS

4. Application for a serial number

If any person proposing to apply to the Court for an adoption order wishes his identity to be kept confidential, he may, before commencing proceedings, apply to the Chief Registrar for a serial number to be assigned to him for the purposes of identifying him in the proposed application and a number shall be assigned to him accordingly.

5. Commencement of proceedings

(1) Proceedings for an adoption order shall be commenced by filing an originating application in Form 1 in the General Registry.

(2) The applicant shall be the intending adopter and the respondents shall be —

- (a) each parent or guardian (not being an applicant) of the child;
- (b) the Department;
- (c) any person liable by virtue of any order or agreement to contribute to the maintenance of the child;
- (d) any 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;
- (e) in a case where the applicant proposes to rely upon section 4(1)(b)(ii) of the Act, the spouse of the applicant.

(3) The Court may at any time direct that any other person or body, not being the child, be made a respondent to the application.

(4) On filing the originating application, the applicant shall supply 3 copies of —

- (a) Form 1, together with any documents required to be supplied, and
- (b) where the child was not placed for adoption with the applicant by an adoption agency, save where the applicant or one of the applicants is a parent of the child, reports by a registered medical practitioner made not more than 3 months earlier on the health of the child and of each applicant, covering the matters specified in Schedule 2.

6. Preliminary examination of application

If it appears to the Chief Registrar on receipt of an originating application for an adoption order that the Court —

- (a) may be precluded, by virtue of section 9(1) of the Act, from proceeding to hear the application, or
- (b) may for any other reason appearing in the application have no jurisdiction to make an adoption order,

he shall refer the application to the Court for directions.

7. Appointment and duties of guardian ad litem

(1) As soon as practicable after an originating application has been filed the Chief Registrar shall request the Court to appoint a guardian ad litem of the child and shall serve on the guardian ad litem a copy of the originating application together with the documents attached thereto.

(2) No person shall be appointed to be a guardian ad litem if he is a respondent or is a member, officer or servant of a respondent body, other than the Department.

(3) 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 —
 - (i) so far as he considers necessary, the matters alleged in the originating application, any report supplied under rule 11(1) or (2), any reports filed under the Convention or the Convention Regulations and, where appropriate, the statement of facts supplied under rule 8; and
 - (ii) any other matters which appear to him to be relevant to the making of an adoption order;
- (b) advise whether, in his opinion, the child should be present at the hearing of the application; and
- (c) perform such other duties as appear to him to be necessary or as the Court may direct.

(4) On completing his investigations the guardian ad litem shall make a report in writing to the Court, drawing attention to any matters which, in his opinion, may be of assistance to the Court in considering the application.

(5) 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.

(6) The Court may, at any time before the final determination of the application, require the guardian ad litem to perform such further duties as the Court considers necessary.

(7) The guardian ad litem shall attend any hearing of the application unless the Court otherwise orders.

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

8. Statement of facts in dispensation cases

(1) Where the applicant intends to request the Court to dispense with the agreement of a parent or guardian of the child on any of the grounds specified in section 5(2) of the Act, the request shall, unless otherwise directed, be made in the originating application or, if made subsequently, by notice to the Chief Registrar and there shall be attached to the originating application, or notice, 3 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 4, the statement of facts supplied under paragraph (1) shall be framed in such a way as not to disclose the identity of the applicant.

(3) Where a statement of facts has been supplied under paragraph (1), the Chief Registrar shall, where and as soon as practicable, inform the parent or guardian of the request to dispense with his agreement and shall send to him a copy of the statement supplied under paragraph (1).

(4) The Chief Registrar shall also send a copy of the statement supplied under paragraph (1) to the guardian ad litem.

9. Agreement

(1) Any document signifying the agreement of any person to the making of an adoption order for the purposes of section 5 of the Act may be in Form 2 and, if executed by a person outside the Island before the commencement of the proceedings, shall be filed with the originating application.

(2) If the document is executed in the Island, it shall be witnessed by a justice of the peace or a commissioner for oaths.

(3) If the document is executed in the United Kingdom, it shall be witnessed by —

- (a) a justice of the peace; or
- (b) a commissioner for oaths; or
- (c) if it is executed in Scotland, a sheriff.

(4) If the document is executed outside the Island or the United Kingdom it shall be witnessed by —

- (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 purposes; or
- (b) a British consular officer; or
- (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.

10. Notice of hearing

(1) Subject to paragraph (4), the Chief Registrar shall list the case for hearing by the Court as soon as practicable after the originating application has been filed and shall serve notice of the hearing on all parties and on the guardian ad litem in Form 3.

(2) In a case where section 7 of the Act applies, the Chief Registrar shall send a copy of the originating application and of the report supplied under rule 7(4) to the Department.

(3) No person other than the guardian ad litem and, in cases where section 7 of the Act applies, the Department shall be served with a copy of the originating application.

(4) Where section 7 of the Act applies, the Chief Registrar shall list the case for hearing on a date not less than 3 months from the date of the notice given to the Department under that section.

(5) If, at any stage before the hearing of the application, it appears to the Court that directions for the hearing are required, the Court may give such directions as it considers necessary and, in any event, the Court shall, not less than 4 weeks before the date fixed for the hearing under paragraph (1), consider the documents relating to the application with a view to giving such further directions for the hearing as appear to the Court to be necessary.

11. Reports by adoption agency etc.

(1) Where the child was placed for adoption with the applicant by an adoption agency, that agency shall supply, within 6 weeks of receipt of the notice of hearing under rule 10, 3 copies of a report in writing covering the matters specified in Schedule 3.

(2) Where the child was not placed for adoption with the applicant by an adoption agency, the Department shall supply, within 6 weeks of receipt of the notice of hearing under rule 10, 3 copies of a report in writing covering the matters specified in Schedule 3.

(3) The Court may request a further report under paragraph (1) or (2) and may indicate any particular matters it requires such a further report to cover.

(4) The Chief Registrar shall send a copy of any report supplied under paragraph (1) or (2) to the guardian ad litem.

(5) No other person shall be supplied with a copy of any report supplied under paragraph (1) or (2) and any such report shall be confidential.

12. The hearing

(1) On the hearing of the application, any person upon whom notice is required to be served under rule 10 may attend and be heard on the question whether an adoption order should be made.

(2) Any member, officer or employee of a party which is a Department, adoption society or other body may address the Court if he is duly authorised in that behalf.

(3) If a serial number has been assigned to the applicant under rule 4, proceedings shall be conducted with a view to securing that he is not seen by or made known to any respondent who is not already aware of his identity except with his consent.

(4) Subject to paragraphs (5) and (7), the Court shall not make an adoption order or an interim order except after the personal attendance before it of the applicant and the child.

(5) If there are special circumstances which, having regard to the report of the guardian ad litem, appear to the Court to make the attendance unnecessary, the Court may direct that the child need not attend.

(6) If there are special circumstances which appear to the Court to make the attendance of any other party necessary, the Court may direct that that party shall attend.

(7) In the case of an application under section 3 of the Act, the Court may in special circumstances make an adoption order or an interim order after the personal attendance of one only of the applicants, if the originating application is verified by an affidavit sworn by the other applicant or, if he is outside the Island, by a declaration made by him and attested by a person specified in rule 9(3) or (4), as the case may be.

13. Proof of identity of child, etc.

(1) Where the child who is the subject of the proceedings is identified in the originating application by reference to a birth certificate which is the same, or relates to the same entry in the registers of births, as a birth certificate exhibited to a form of agreement, the child so identified shall be deemed, unless the contrary appears, to be the child to whom the form of agreement refers.

(2) Where the child has previously been adopted, paragraph (1) shall have effect as for if the references to a birth certificate and to the registers of births there were substituted respectively references to a certified copy of an entry in the Adopted Children Register and to that Register.

(3) 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.

(4) Where the place of birth of the child is not proved to the satisfaction of the Court but it appears probable that he was born in the Island, the United Kingdom or the Channel Islands he may be treated as having been born in the registration district of Douglas, and in any other case (where the country of birth is not proved) the particulars of the country of birth may be omitted from the adoption order.

(5) In the circumstances mentioned in section 5(2A) of the Act, any order identifying the probable date and place of birth and made in the proceedings under the relevant provision mentioned in the said section 5(2A) shall be sufficient proof of the date and place of birth of the child in the proceedings to which this rule applies.

14. Further proceedings after interim order

Where the Court has made an interim order, the Chief Registrar shall —

- (a) list the case for further hearing by the Court on a date before the order expires, and
- (b) send notice in Form 3 of the date of the hearing to all the parties and to the guardian ad litem not less than one month before that date.