

Children (Adoption) Rules

SECTIONS 108

CHILDREN (ADOPTION) RULES [\[1\]](#)

[31st August, 1964]

S.I. 45 of 1964

S.I. 29 of 1966

S.I. 52 of 1982

S.I. 6 of 1985

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Short title 1. These rules may be cited as the Children (Adoption) Rules.

Interpretation 2. In these rules the following expressions have the meanings hereby assigned to them unless the context otherwise requires -

"application" means an application for an adoption order and applicant shall be construed accordingly;

"child" means the child whom the applicant is applying to adopt;

"determination of application" includes a withdrawal of the application;

"interim order" means an order made under section 45(1) of the Children Act;

"the court" means the Supreme Court;

"Registrar" means the Registrar of the Supreme Court;

"regular armed forces of the Crown" means the Royal Navy, the regular forces as defined by section 225 of the Army Act, 1955, the regular air force as defined by section 223 of the Air Force Act, 1955, the Women's Royal Naval Service, Queen Alexandra's Royal Naval Nursing Service and Voluntary Aid Detachments serving with the Royal Navy.

Commence- 3.(1) An application shall be in Form 1 and shall be made to the

ment of court by filing it with the Registrar together with all documents

proceeding referred to in the application as attached thereto. The applicant shall supply to the Registrar a copy of his application.

(2) If any person proposing to apply to the court for an adoption order desires that his identity be kept confidential, he may, before making his application apply to the Registrar 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.

Medical 4. Except where the applicant, or one of the applicants, is the
certificate father or mother of the child every applicant shall supply to the
as to Registrar at the time he files his application the certificate of
applicant's a registered medical practitioner as to his health. For the purposes
health of such certificate Form 2 may be used.

Medical 5.(1) A report on the health of the child which is to be used for the
report on purposes of an application shall be supplied by the applicant to the
health of Registrar at the time he files his application.
child

(2) The report may if the applicant so desires be in Form 3.

Document 6.(1) A document signifying the consent of any person to the
signifying making of an adoption order for the purposes of section 40(1) of the
consent in Children Act shall be in the Form in Schedule 1 to that Act.
what form

and how (2) If the said document is executed in Seychelles it shall be sufficiently attested for the purposes of section 41(1) of the Children

SI. 52 of 1982 Act if it is attested by any of the following persons namely, a Judge, a Magistrate, a Justice of the Peace, a Notary or the Registrar.

(3) If the said document is executed outside Seychelles it shall be sufficiently attested for the purposes of section 41(1) of the Children Act if it is attested by any of the following persons -

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

(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.

(4) Subject to rule 7 the court may notwithstanding paragraphs (2) and (3) -

(a) on the request of the prospective applicant or the Director, in either case before an application is made; or

(b) in any other case as soon as possible after an application is made,

appoint a person to act as reporting officer in terms of section 49(1) (b) of the Children Act, for the purpose of witnessing agreements to the adoption in terms of section 41 of and Schedule 1 to that Act.

Court may refuse to proceed with application when previous application dismissed.

7. If it appears that the applicant has previously made an application in respect of the same child to the court, and that the court, after having heard the case dismissed the application on its merits, the court shall not proceed with the application unless it is satisfied that there has been a substantial change in the circumstances since the previous application.

Appointment of guardian ad litem.

8.(1) Subject to the provisions of rule 7 the court shall, as soon as practicable after an application is made, appoint a guardian ad litem to the child and shall furnish him with a copy of the application, together with the documents attached thereto or filed at the same time as the application.

(2) The person appointed guardian ad litem shall be the Attorney General, if he consents. If the Attorney General 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 applicant must ask for the appointment of a guardian ad litem in his application. The court must thereupon appoint as guardian ad litem some other person who appears to it to be suitably qualified.

Provided that no person shall be appointed guardian ad litem if he has taken part in the arrangements for the adoption of the child.

(3) Where the Attorney General is appointed guardian ad litem he may carry out his duties and appear before the court personally or by any other law officer of the Republic.

Duties of 9.(1) With a view to safeguarding the interests of the child before

guardian ad litem 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 application and those specified in the Second Schedule to these Rules; and

(b) perform such other duties as are specified in the said Schedule or as the court may direct.

(2) On completing his investigation the guardian ad litem shall make a confidential 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 necessary.

Fixing time for hearing 10. At the time of appointing the guardian ad litem the court shall fix a time for the hearing of the application.

Notice of hearing to be served on applicant 11.(1) When the time for the hearing of the application has been fixed the Registrar shall cause a notice of the time of hearing to be served on the applicant.

When attendance of infant (2) If the guardian ad litem reports to the court that in his opinion the child is able to understand the nature of an adoption order the Registrar shall inform the applicant that the personal

required attendance of the child at the hearing of the application is required.

Notice of 12.(1) When the time for the hearing of the application has been
hearing to fixed the Registrar shall cause to be served a notice of the time of
be served on hearing on the following persons -
certain other

persons who (a) every person, not being an applicant, whose consent to
shall be the making of an adoption order is required under
respondents section 40(1) of the Children Act;
to the

application (b) any other person not being the child who in the opinion of the court
ought to be served with notice of the hearing of the application.

(2) Any person on whom a notice is required to be served under the foregoing provisions of
this rule shall be a respondent to the application.

Personal 13. The court shall not make an adoption order or an interim order
attendance except after the personal attendance before the court of the applicant.
of applicant
before the

court Provided that where the application is made by two spouses jointly the court
may dispense with the personal attendance of one of the applicants if the application is verified
by a declaration made by that applicant and attested as set out in rule 6(2), (3) or (4).

Personal 14. If the applicant has been informed that the personal attendance

attendance of the child at the hearing is required the court shall not make an
of child adoption order or an interim order unless -

(a) the child has so attended or the court decides that there are special circumstances making his attendance unnecessary; and

(b) the court is satisfied that the child has been informed of the nature of the order.

Proceedings 15. Every application shall be heard and determined in chambers
to be held unless the court orders otherwise.

in chambers

unless court

otherwise

orders

S.I. 6 of 1985

Consent of 16.(1) Where an application for adoption is made by a married

the President couple both of whom are not resident in Seychelles or by a person

S.I. 6 of 1985 who is not resident in Seychelles, the Supreme Court shall, where it is satisfied that it is in the best interests of the child that the application shall be allowed, forward the application and the affidavits filed in support of such application to the President for the exercise of his powers under section 37(2) or section 38(2) of the Children Act.

(2) A document signifying the consent of the President under section 37(2) or section 38(2) of the Children Act, shall be in Form 6.

Fixing time for further hearing when interim order made 17.(1) Where the determination of an application is postponed and an interim order is made, the court shall, on making the order or at any time thereafter but not less than one month before the expiration of the period during which the applicant has been in custody of the child in accordance with the interim order and whether or not the applicant makes an application for the purpose, fix a time for the further hearing of the application.

(2) On fixing a time for the further hearing of the application the court shall cause to be served on the applicant and on each respondent to the application a notice of the time of the further hearing.

Copy of adoption order to be sent to Chief Officer of the Civil Status 18. Within seven days after the making of an adoption order the Registrar shall send a copy of the order to the Chief Officer of the Civil Status.

Order as to costs. 19. On the determination of an application or on the making of an interim order the court may make such order as to costs as it thinks just, and in particular may order the applicant to pay -

- (a) out-of-pocket expenses incurred by the guardian ad-litem; and
- (b) the expenses incurred by any respondent in attending the hearing or such part of those expenses as the court thinks proper.

Information 20. Any information obtained by any person in the course of, or
obtained in relating to, proceedings under Part V of the Children Act shall be
course of treated as confidential and shall not be disclosed by him except so
proceedings far as may be necessary for the proper execution of his duty.
to be treated
as confiden-
tial

Service how 21. Unless otherwise directed, service of a document under these
effected rules on any person may be effected by delivering it to him or by sending it by
post to him at his last known or usual place of abode.

Chapter 213 to 22. Save in so far as special provision is made by these rules,
apply in proceedings on an application shall be regulated in the same manner
certain as proceedings under the Seychelles Code of Civil Procedure, and
respects accordingly for the purposes of this rule the application shall be deemed to be a
plaint, the applicant to be a plaintiff, the respondents to be defendants and any notice served
under the rules to be a summons.

Copies of 23. The court shall cause to be served on the guardian ad litem
notices to a copy of every notice served on an applicant or respondent.
be served on
guardian
ad litem

Forms in adoption and interim order 24. When the court makes an adoption order or an interim order Form 4 and Form 5 may respectively be used with such variation as the circumstances may require.

Forms in First Schedule may require. 25. In these rules a form referred to by number means the form so numbered in the First Schedule to these rules or a form to the like effect, and any such form may be used with such variation as the circumstances may require.

Particulars of adoption orders SI. 52 of 1982 26.(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 shall specify that date in the adoption order as the date of his birth.

(2) Where the first name or names or surname which the child is to bear after the adoption differs from his original first name or names or surname, the new first name or names or surname shall be specified in the adoption order instead of the original.

(3) Where the country of birth of the child is not proved to the satisfaction to the court, the particulars of that country may be omitted from the adoption order.

Directions on marking of registers 27.(1) Where on an application for an adoption order there is proved to the satisfaction of the court the identity of the child (not being a child who has previously been the subject of an adoption order made

SI. 52 of 1982 by the court under the Adoption Act or the Children Act,) with a

Cap. 87 child to whom an entry in the Register of Births relates, any adoption

(1971 Ed.) order made by the Court shall contain a direction to the Chief Officer

Cap. 28 of the Civil Status to cause the entry in the Register of Births to be marked with the word "Adopted".

(2) Where an adoption order is made by the court in respect of a child who has previously been the subject of an adoption order under the Adoption Act or the Children Act, the order shall contain a direction to the Chief Officer of the Civil Status to cause the previous entry in the Adopted Children Register to be marked with the word "Re-adopted".

Amendment 28.(1) Where the court amends an adoption order under section

revocation 64(4) of the Children Act, it shall cause that amendment to be

etc. of communicated to the Chief Officer of the Civil Status.

adoption

order (2) Where an adoption order is quashed or revoked or an appeal

SI. 52 of 1985 against an adoption order allowed, the court shall give directions to the Chief Officer of the Civil Status to cancel any marking of an entry in the Register which was made under that order.

(3) A copy or extract of an entry in the Adopted Children Register or the Register of Births marking of which is cancelled under this rule, is not deemed to be an accurate copy unless both the marking and the cancellation are omitted from it.

SCHEDULE

APPLICATION FOR AN ADOPTION ORDER

In the Supreme Court of Seychelles

In the matter of (I) a child.

I, the undersigned /We, the undersigned being desirous of adopting
(2) a child under the Children Act, hereby make application to the court for an order:-

[A. That a guardian ad litem be appointed for the purposes of safeguarding the interests of the
said] (3).

B. That the applicant(s) be authorized to adopt the said

C. I/We hereby give the following particulars in support of my/our application.

PART I

PARTICULARS OF THE APPLICANT(S)

1. Name of [first] applicant in full

Address

Occupation

Date of birth

Relationship (if any) to the child

2. Name of second applicant in full

Address

Occupation

Date of birth

Relationship (if any) to the child

3. I am/We are resident in Seychelles.

4. I am unmarried/a widow/widower/I am married to of /We are married to each other and are the persons described as and in the marriage certificate attached hereto.

[5. The consent of my husband/wife to the making of an adoption order in pursuance of my application is attached hereto, (or I request the court to dispense with the consent of my husband/wife on the ground that (4)]. (5)

[6. A certificate as to my/our health, signed by a registered medical practitioner, is attached hereto.] (6)

PART II

PARTICULARS OF THE CHILD

7. 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 certificate attached hereto relates.

[8. A report on the health of the child, made by a registered medical practitioner, is attached hereto.] (7)

[9. The child is the child of (8) whose last known address was and (9) whose last known address was

[10. The guardian(s) of the child is/are of and of] (10)

[11. A document/documents signifying the consent of the said (11) to the making of an adoption order in pursuance of my/our applica- tion is/are attached hereto.

[12. I/We request the court to dispense with the consent of on the ground that] (12)

[13..... of is liable by virtue of an order made by the Court, or by an agreement dated the day of 19....., to contribute to the maintenance of the child.] (13)

14. If an adoption order is made in pursuance of this application the child is to be known by the following names -

Surname

Other names

PART III

GENERAL

15. The child was received into my/our care and possession on the day of 19....., and has been continuously in my/our care since that date.

16. I have not made/Neither of us have made a previous application for an adoption order in respect of the child [except an application No. made to the court which was heard on the day of 19..... and was dealt with as follows] (14)

17. I/We have not received or given any reward or payment for, or in consideration of, the adoption of the child or for giving consent to the making of the adoption order [except as follows]. (15)

Dated the day of 19.....

.....

(Usual signature of applicant(s))

Notes

- (1) Enter the name(s) and surname which the child is to bear after the adoption.

- (2) Enter the name(s) and surname by which the child was known before being placed for adoption.

- (3) Delete this paragraph if the Attorney General has consented to act as guardian ad litem, and the applicant does not desire some other person to be appointed.

- (4) The consent of the applicant's spouse may be dispensed with if the court is satisfied that he or she cannot be found or is incapable of giving his or her consent or that the spouses have separated and are living apart and the separation is likely to be permanent.

- (5) This paragraph should be deleted if the application is made jointly by husband and wife or the applicant is unmarried.

- (6) A separate medical certificate is required in respect of each applicant. There is an official form (Form 2) which may be used for this purpose. No certificate, however, need be supplied if the applicant, or one of the applicants, is the father or mother of the child.

- (7) As the court may require up to date information as to the health of the child, a medical report should be supplied unless the applicant, or one of the applicants, is a parent or relative of the child. There is an official form (Form 3) which may be used for this purpose. If the child is less than one year old on the date of the application, the report should have been made not more than one month before that date. If the child is one year old or more on that date the report should have been made not more than six months before that date.

(8) Enter the mother's name.

(9) Enter the name of father, if known.

(10) Guardian means the legal, testamentary or dative guardian of the child. Delete this paragraph if not applicable.

(11) Enter the names of the persons mentioned in paragraphs 9 and 10 except, in the case of an illegitimate child, his father.

(12) The consent of a parent or guardian may be dispensed with if the court is satisfied that the person whose consent is required has abandoned, neglected or persistently ill-treated the child or has persistently failed without reasonable cause to discharge the obligations of a parent or guardian or cannot be found, or is incapable of giving his consent or is withholding his consent unreasonably or that a provisional adoption order has been made in respect of the child under section 53 of the Adoption Act of the United Kingdom or under the corresponding provision of any Act or Ordinance of any country in the Commonwealth. For further information reference should be made to 40(2) of the Children Act.

(13) This paragraph should be deleted except where some person is liable to maintain the child under a court order or an agreement.

(14) The court cannot proceed with the application if a previous application made by the same applicant in respect of the same child has been heard and dismissed on its merits, unless there has been a substantial change in the circumstances since the previous application or the court had directed that section 43(1) of the Children Act shall not apply.

(15) Any such payment or reward is illegal (Section 61 of the Children Act)

MEDICAL CERTIFICATE AS TO HEALTH OF APPLICANT

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

Signature Date

Qualifications

Address

MEDICAL REPORT ON HEALTH OF CHILD

Note:

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 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 vision)

Nose and throat

Speech

Cardio-vascular system

Respiratory system

Alimentary system

Genito-urinary system (including examination of urine for albumen, sugar and phenylpyruvic acid)

Skeletal and articular system (including examination of 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 successful vaccinated with B.C.G. vaccine)

Smallpox

Diphtheria

Whooping cough

Poliomyelitis

Tetanus (active)

Any other disease

E. Result of suitable serological test of the child's blood for syphilis taken six weeks or later
after birth (please specify test).

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

IN THE SUPREME COURT OF SEYCHELLES

ADOPTION ORDER (THE CHILDREN ACT, SECTION 33)

Whereas an application has been made by of occupation (hereinafter called the applicant) for an adoption order in respect of (enter names and surname as shown in birth certificate or Adopted Children Register or, if not so shown, by which child was known before being placed for adoption) a child of the sex the child/adopted child of (hereinafter called the child);

And Whereas the name or names and surname by which the child is to be known are

And Whereas the court is satisfied that the applicant is qualified in accordance with the provisions of the Children Act, to adopt the child and that all conditions precedent to the making of an adoption order by the court have been fulfilled;

It is ordered that the applicant be authorized to adopt the child.

[And as regards costs, it is order that;]

[And the precise date of the child's birth not having been proved to the satisfaction of the court, it is determined that the probable date of the child's birth was

The country of birth of the child not having been proved to the satisfaction of the court, the particulars of the country of birth shall be omitted from the Schedule to this Order and from the entry in the Adopted Children Register;]

And it is directed that the Chief Officer of the Civil Status shall make in the Adopted Children Register an entry recording the particulars set out in the Schedule to this Order;

And it having been proved to the satisfaction of the court that the child is identical with [..... to whom the entry at folio No made on the day of 19....., in the Register of Births for district relates] [..... to whom the entry at folio No..... made on the day of, 19....., in the Adopted Children Register relates] it is directed that the said entry in the Register of Births be marked with the word "Adopted"/the Adopted Children Register be marked with the word "Re-adopted".

[The following payment(s) is sanctioned]

Dated the day of 19

(Signature)

Chief Justice/Judge

SCHEDULE

Date country of birth of child

Date and surname of child

Sex of child

Name and surname address and occupation of adopter or adopters

Date of adoption order

Rule 24

Rule 5

IN THE SUPREME COURT OF SEYCHELLES

INTERIM ORDER (THE CHILDREN ACT, SECTION 45)

Whereas an application has been made by of (hereinafter called the applicant) for an adoption order in respect of (enter the name and surname of child as shown in birth certificate or Adopted Children Register or, if not so shown, by which the infant was known before being placed for adoption), the child of the sex (hereinafter called the child);

And Whereas the court is satisfied that the applicant is qualified in accordance with the provisions of the Children Act, to adopt the child and that all conditions precedent to the making of an interim order by the court have been fulfilled;

It is ordered that the determination of the application be postponed and that the applicant do have the custody of the child until the day of 19....., by way of a probationary period;

[On the following terms namely;*]

[And as regards costs, it is ordered that:]

[And that the application shall be further heard on]

Dated the day of 19.....

Signature

Chief Justice/Judge

*Provision may be made for the maintenance, education and supervision of the welfare of the child and otherwise.

Rule 16

Form 6

**CONSENT OF PRESIDENT
TO AN ADOPTION ORDER**

In The Matter of the adoption of

.....

Whereas the *the applicants are not resident/ *the applicant is not resident in Seychelles.

AND WHEREAS, on a consideration of the Petition and Affidavits filed in this application for adoption, being satisfied that the proposed adoption would be in the best interests of the child.

I, PRESIDENT do hereby grant consent to the making of an adoption order.

This day of 19

PRESIDENT

*Delete whatever is inapplicable.

SECOND SCHEDULE

Rule 9

PARTICULAR DUTIES OF THE GUARDIAN ad litem

1. The guardian ad litem shall interview the applicant and shall ascertain -

(a) particulars of all members of the applicant's household and their relationship (if any) to the applicant;

(b) particulars of the accommodation in the applicant's home and the condition of the home;

(c) the means of the applicant;

(d) 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;

(e) in the case of an application by one only of two spouses, why the other spouse does not join in the application;

(f) 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;

(g) 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.

2. 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 treatments the child has received with a view to immunising him against disease;

(c) whether the child has any right to, or interest in, any property.

3. The guardian ad litem shall ascertain whether the child is able to understand the nature of an adoption order and, if he is, whether he wishes to be adopted by the applicant.

4. 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 12 or who appears to the guardian ad litem to have taken part in the arrangements for the adoption of the child.

5. The guardian ad litem shall ascertain when the mother of the child ceased to have the care and possession of the child and to whom the care and possession was transferred.

6. The guardian ad litem shall ascertain that every consent to the making of an adoption order in pursuance of the application is freely given and with full understanding of the nature and effect of an adoption order.

7. 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.

8. Where the child is illegitimate but no one is liable as the putative father to contribute to the maintenance of the child by virtue of any order or agreement, 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.

9. 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.

10. Where the applicant is not ordinarily resident in Seychelles, the guardian ad litem shall endeavour to obtain a report on the applicant's home and living conditions from a suitable agency in the country in which he is ordinarily resident.

[\[1\]](#) These rules made under the repealed Adoption Act (Cap 87) (1971 Ed.) are continued in force under section 110(2) of the Children Act (Cap. 28)