
CHAPTER 131**ADOPTION OF CHILDREN****LIST OF AUTHORISED PAGES**

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CHAPTER 131

ADOPTION OF CHILDREN

An Act to make provision for the adoption of infants.

[Commencement 22nd July, 1954]

52 of 1954
46 of 1964
E.L.A.O., 1974
27 of 1976
5 of 1987
1 of 2007

1. This Act may be cited as the Adoption of Children Act. Short title.
2. In this Act, unless the context otherwise requires — Interpretation.
 - “adopted child” means any infant authorised by the court to be adopted;
 - “adopter” means a person authorised by the court to adopt an infant;
 - “adoption order” means an order made under section 3 of this Act;
 - “the court” means the Supreme Court;
 - “infant” means a person under the age of eighteen; *27 of 1976, s. 2.*
 - “Registrar” means the Registrar General and includes the Assistant Registrar General;
 - “Registry” means the Registrar General’s Department;
 - “relative” in relation to an infant means a grandparent, brother, sister, uncle or aunt, whether of the full blood, of the half blood or by affinity, and includes —
 - (a) where an adoption order has been made in respect of the infant or any other person, any person who would be a relative of the infant within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock;
 - (b) where the infant is illegitimate, the father of the infant and any person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of its mother and father.
3. Upon an application in the prescribed manner being made by any person desirous of being authorised to Power to make adoption orders.

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 the infant, and it is hereby declared that the power of the court to make adoption orders shall include power to make an adoption order authorising the adoption of an infant by the mother or father of the infant, either alone or jointly with her or his spouse.

Alien infants.

4. An adoption order may be made in respect of an infant who is not a British subject.

Application by two spouses jointly.

5. 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.

Restrictions on making of adoption orders.

6. (1) An adoption order shall not be made unless the applicant or, in the case of a joint application, one of the applicants —

- (a) has attained the age of twenty-five and is at least twenty-one years older than the infant in respect of whom the application is made; or
- (b) has attained the age of eighteen and is a relative of the infant; or
- (c) is the mother or father of the infant.

27 of 1976
s. 2(3).

(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 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.

7. (1) 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, or who is liable by virtue of any order or agreement to contribute to the maintenance of the infant:

Consent of parent or guardian.

Provided that the court may dispense with any consent required by this subsection if it is satisfied —

- (a) in the case of a parent or guardian of the infant, that he has abandoned, neglected or persistently ill-treated the infant;
- (b) in the case of a person liable as aforesaid to contribute to the maintenance of the infant, that he has persistently neglected or refused so to contribute;
- (c) in any case, that the person whose consent is required cannot be found, or is incapable of giving his consent or that his consent is unreasonably withheld.

(2) The consent of any person to the making of an adoption order in pursuance of an application may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the infant is to be brought up) without knowing the identity of the applicant for the order; and where consent so given by any person is subsequently withdrawn on the ground only that he does not know the identity of the applicant, his consent shall be deemed for the purposes of this section to be unreasonably withheld.

Conditional consent.

(3) Where any person whose consent to the making of an adoption order is required by this section does not attend in the proceedings for the purpose of giving it, a document signifying his consent to the making of such an order shall, if the person in whose favour the order is made is named or otherwise described in the document, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings; and where any such document is attested by a justice of the peace or notary public (or, if executed outside The Bahamas, by a person of any such class as may be prescribed by rules made under this Act), the document shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed:

Admissibility of written consent.

Consent of
mother of infant.

Provided that a document signifying the consent of the mother of an infant shall not be admissible as aforesaid unless —

- (a) the infant is at least six weeks old on the date of the execution of the document; and
- (b) the document is attested on that date by a justice of the peace or notary public or, as the case may be, by a person or a class prescribed as aforesaid.

Custody of infant
when application
pending.

(4) While an application for an adoption order in respect of an infant is pending in any court, any parent or guardian of the infant who has signified his consent to the making of an adoption order in pursuance of the application shall not be entitled, except with the leave of the court, to remove the infant from the care and possession of the applicant; and in considering whether to grant or refuse such leave the court shall have regard to the welfare of the infant.

(5) For the purposes of subsection (3) of this section, a document purporting to be attested as mentioned in that subsection shall be deemed to be so attested and to be executed and attested on the date and at the place specified therein, unless the contrary is proved.

Matters with
respect to which
court to be
satisfied.

8. The court before making an adoption order shall 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.

9. 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 conditions of order.

10. (1) Where in connection with any application for an adoption order any question arises as to the paternity of an infant, and, in order to decide that question it is relevant to determine whether marital intercourse took place between a husband and his wife during a particular period, evidence that such intercourse did not take place may be given in the proceedings on the application by either of the parties concerned.

Evidence of paternity.

(2) A person who has given such evidence as aforesaid in any proceedings by virtue of this section may give the like evidence in any subsequent proceedings of whatever nature in which that evidence is relevant.

11. 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 education 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 parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock:

Effect of adoption order.

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.

Provisions relating to devolution of real and personal property.

12. (1) The provisions of this and section 13 shall have effect for securing that adopted persons are treated as children of the adopters for the purposes of the devolution or disposal of real and personal property.

(2) Where, at any time after the making of an adoption order the adopter or the adopted person or any other person dies intestate in respect of any real or personal property (other than property subject to an entailed interest under a disposition made before the date of the adoption order) that property shall devolve in all respects as if the adopted person were the child of the adopter born in lawful wedlock and were not the child of any other person.

Definition of “child” and “children”.

(3) In any disposition of real or personal property made, whether by instrument *inter vivos* or by will (including codicil), after the date of an adoption order —

- (a) any reference (whether express or implied) to the child or children of the adopter shall be construed as, or as including, a reference to the adopted person;
- (b) any reference (whether express or implied) to the child or children of the adopted person’s natural parents or either of them shall be construed as not being, or not including, a reference to the adopted person; and
- (c) any reference (whether express or implied) to a person being the relative of the adopted person in any degree shall be construed as a reference to the person who would be related to him in that degree if he were the child of the adopter born in lawful wedlock and were not the child of any other person,

unless the contrary intention appears.

Dignity or title of honour.

(4) Where under any disposition any real or personal property or any interest in such property is limited (whether subject to any preceding limitation or charge or not) in such a way that it would, apart from this section, devolve (as nearly as the law permits) along with a dignity or title of honour, then, whether or not the disposition contains an express reference to the dignity or title of honour, and whether or not the property or some interest in the property may in some event become severed therefrom, nothing in this section shall operate to sever

the property or any interest therein from the dignity, but the property or interest shall devolve in all respects as if this section had not been enacted.

13. (1) For the purposes of the application of the Inheritance Act and the Law of Property Act to the devolution of any property in accordance with the provisions of section 12 of this Act, and for the purposes of the construction of any such disposition as is mentioned in that section, an adopted person shall be deemed to be the relative of any other person being the child or adopted child of the adopter or (in the case of a joint adoption) of either of the adopters —

Definition of
“relative”.
Ch. 170.

- (a) where he or she was adopted by two spouses jointly and that other person is the child or adopted child of both of them, as brother or sister of the whole blood;
- (b) in any other case, as brother or sister of the half blood.

(2) Notwithstanding any rule of law, a disposition made by will or codicil executed before the date of an adoption order shall not be treated for the purposes of section 12 as made after that date by reason only that the will or codicil is confirmed by a codicil executed after that date.

(3) Notwithstanding anything in section 12 of this Act trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto, without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

Trustees or
personal
representatives
may convey or
distribute real or
personal estate.

(4) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of section 12 in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order and in relation to any disposition of property made after that date.

Previous
adoption to be
disregarded.

Prohibited
degrees of
consanguinity.

14. (1) For the purpose of the law relating to marriage an adopter and the person whom he has been authorised to adopt under an adoption order shall be deemed to be within the prohibited degrees of consanguinity; and the provisions of this section shall continue to have effect notwithstanding that some person other than the adopter is authorised by a subsequent order to adopt the same infant.

(2) Where an adoption order is made in respect of an infant who is illegitimate, any affiliation order in force with respect to the infant, and any agreement whereby the father of the infant has undertaken to make payments specifically for the benefit of the infant, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the affiliation order or the agreement at the date of the adoption order:

Provided that where the infant is adopted by his mother, and the mother is a single woman, the order or agreement shall not cease to have effect by virtue of this subsection upon the making of the adoption order, but shall cease to have effect if she subsequently marries.

Power of court to
make interim
order.

15. (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.

(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.

Power to make
subsequent order
in case of infant
subject to order.

16. 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 in such case 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.

Rules.
*1 of 2007, Sixth
Sch.*

17. (1) 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

generally with all matters of procedure and incidental matters arising out of this Act and for carrying this Act into effect shall be made under section 76 of the Supreme Court Act. Such rules may provide for applications for adoption orders being heard and determined otherwise than in open court.

Ch. 53.

46 of 1964, Sch.

(2) Without derogating from subsection (1) where the guardian ad litem in the adoption proceedings is not a representative of the Department responsible for social services, no adoption order shall be made unless the court is satisfied that a copy of the originating summons in the proceedings together with the statement containing the evidence in support of the application have been served within three days of its filing in court upon the Director of Social Services.

1 of 2007, Sixth Sch.

(3) The Director of Social Services shall be entitled to be represented at the hearing of the originating summons.

1 of 2007, Sixth Sch.

18. (1) For the purpose of an application under this Act 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.

Court to appoint guardian *ad litem*.

(2) On the determination of an application, or on the making of an interim order, the court may order the applicant to pay the costs of the application or such part thereof as the court thinks proper and may enforce any such order against all persons bound thereby in the same manner as a judgment to the same effect.

Costs.

For the purposes of this subsection the costs of an application shall be taken to include such sums as the court may fix in respect of the out of pocket expenses incurred by the guardian *ad litem* appointed under subsection (1) of this section and shall be taken to include also such sums as the court may fix for the services of counsel on behalf of the infant.

19. (1) 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 any parent or guardian any such payment or reward.

Prohibition of payment or reward.

Prohibition of advertisement.

- (2) It shall not be lawful for any person to publish or cause to be published any advertisement indicating —
- (a) that the parent or guardian of a child is desirous of causing the child to be adopted; or
 - (b) that a person is desirous of adopting a child.

Penalty.
5 of 1987, s. 2.

- (3) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding two hundred dollars.

Provisions as to existing *de facto* adoptions.

20. 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.

Adopted Children Register.

21. (1) The Registrar shall establish and maintain at the Registry 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.

Particulars to be entered in Adopted Children Register. Schedule.

(2) Every adoption order made after the commencement of this Act shall contain a direction to the Registrar to make in the Adopted Children Register an entry in the form set out in the Schedule to this Act, and (subject to the provisions of subsection (3) of this section) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.

(3) For the purposes of compliance with the requirements of subsection (2) —

- (a) where the precise date of the infant'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 shall be specified in the order as the date of birth;

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- (b) where the name or surname which the infant is to bear after the adoption differs from his original name or surname, the new name or surname shall be specified in the order instead of the original,

and where the country of the birth of the infant is not proved to the satisfaction of the court, the particulars of that country may, notwithstanding anything in that subsection, be omitted from the order and from the entry in the Adopted Children Register.

(4) Where upon any application for an adoption order in respect of an infant (not being an infant who has previously been the subject of an adoption order) there is proved to the satisfaction of the court the identity of the infant with a child to which an entry in the Register of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar to cause the entry in the Register of Births to be marked with the word “adopted”.

Marking of
Register of
Births.

(5) Where an adoption order is made in respect of an infant who has previously been the subject of an adoption order, the order shall contain a direction to the Registrar to cause the previous entry in the Adopted Children Register to be marked with the word “re-adopted”.

(6) Where an adoption order is quashed, or an appeal against an adoption order allowed, the court shall give directions to the Registrar to cancel any markings of an entry in the Register of Births and any entry in the Adopted Children Register which was effected in pursuance of the order.

(7) A copy of any entry in the Register of Births or the Adopted Children Register the marking of which is cancelled under this section shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(8) The prescribed officer of the court shall cause every adoption order to be communicated in the prescribed manner to the Registrar, and upon receipt of such communication the Registrar shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Register of Births with the word “adopted”, and in regard to making the appropriate entry in the Adopted Children Register.

Duty of
Registrar to
cause entries and
markings to be
made.

Admissibility of certified copy of entry.

(9) A certified copy of any entry in the Adopted Children Register if purporting to be sealed or stamped with the seal of the Registrar 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 not only as evidence of the adoption to which the same relates but also as evidence of the date of the birth or the country 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.

Amendment of order.

(10) The court, after having made an adoption order may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein; and where an adoption order is so amended the prescribed officer of the court shall cause the amendment to be communicated in the prescribed manner to the Registrar and any necessary correction of or addition to the Adopted Children Register shall be made accordingly.

Public to have right to search Adopted Children Register.
5 of 1987, Sch.

(11) The Registrar shall cause an index of the Adopted Children Register to be made and kept in the Registry and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register upon payment of a fee of two dollars for each such search and five dollars for each such certificate.

(12) The Registrar 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 connection 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 order of the court, shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

22. It shall be lawful for the Minister responsible for the Registry of Records from time to time to make rules with respect to the duties to be performed by the Registrar in the execution of this Act.

Minister may
make certain
rules.
E.L.A.O., 1974.

SCHEDULE (Section 21)

FORM OF ENTRY TO BE MADE IN REGISTER

1	2	3	4	5	6	7	8
No. of entry.	Date and country of birth of child.	Name and surname of child.	Sex of child.	Name and surname, address and occupation of adopter or adopters.	Date of adoption order and description of court by which made.	Date of entry.	Signature of officer deputed by Registrar General to attest the entry.