
INTERNATIONAL CHILD ABDUCTION RULES
(SECTION 10)*S.I. 116/2001**[Commencement 27th July, 2001]*

- 1.** These Rules may be cited as the International Child Abduction Rules, 2001. Citation.
- 2.** In these Rules — Interpretation.
- “the Act” means the International Child Abduction Act, 1993; Ch. 137.
- “Central Authority” in The Bahamas means the Minister responsible for Foreign Affairs;
- “Contracting State” means a country other than The Bahamas which is a party to the Convention;
- “the Convention” means the Convention defined in section 2 of the Act;
- “court” means the Supreme Court of The Bahamas;
- “the Registry” means the Registry of the Supreme Court;
- “relevant authority” means a court or tribunal of competent jurisdiction outside The Bahamas.
- 3.** (1) Except where these Rules otherwise provide, every application made under the Convention to the court shall be made by originating summons in accordance with Form 1, 2 or 3 of the Schedule. Mode of application.
Form 1, 2 or 3 of Schedule.
- (2) Notwithstanding paragraph (1), the court may expressly authorize an application to be made by some other means.
- 4.** (1) Every originating summons for the return of a child shall be supported by a statement of particulars which shall state — Application for return of a child.
- (a) the identity of the plaintiff and the person who is alleged to have removed or retained the child and if different the identity of the person with whom the child is alleged to be;
- (b) the identity of the child and the child’s date of birth;

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- (c) the habitual residence of the child prior to the alleged wrongful removal or retention;
 - (d) the whereabouts or suspected whereabouts of the child;
 - (e) the date on which and the place at which the child is alleged to have been wrongly removed or retained;
 - (f) the relationship of the plaintiff to the child;
 - (g) the person to whom the child is to be returned and any proposed arrangements for the return of the child;
 - (h) the factual and legal grounds on which the originating summons is based; and
 - (i) whether there are any civil proceedings pending before any other court or authority in or outside The Bahamas in respect of the child, or any proceedings relating to the merits of the rights of custody of the child in or before a relevant authority.

(2) The statement of particulars shall be contained in the same document as the originating summons and shall follow at the foot or end thereof.

(3) There shall be produced with the originating summons and lodged as an exhibit —

- (a) a certified or authenticated copy of any relevant decision or agreement; and
- (b) any other relevant document.

(4) The court may, prior to the making of an order for the return of a child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful.

Application for
access to a child.

5. (1) Every originating summons for access to a child shall be supported by a statement of particulars which shall state —

- (a) the identity of the plaintiff and the person alleged to have removed or retained the child and, if different the identity of the person with whom the child is alleged to be;
- (b) the identity of the child and his date of birth;
- (c) the parents or guardians of the child;

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- (d) the whereabouts or suspected whereabouts of the child;
 - (e) the relationship of the plaintiff to the child;
 - (f) the factual and legal grounds on which access is sought; and
 - (g) whether there are any civil proceedings pending before any other court or authority in or outside The Bahamas in respect of the child, or any proceedings relating to the merits of the rights of custody of the child in or before a relevant authority.

(2) The statement of particulars shall be contained in the same document as the originating summons and shall follow at the foot or end thereof.

- (3) There shall be produced with the originating summons and lodged as an exhibit —
- (a) a certified or authenticated copy of any relevant decision or agreement; and
 - (b) any other relevant document.

6. (1) Every originating summons for a declaration that the removal or retention of a child was wrongful shall be supported by a statement of particulars which shall state —

Application for declaration that removal or retention of child was wrongful.

- (a) the identity of the plaintiff and of the person who is alleged to have removed or retained the child and if different the identity of the person with whom the child is alleged to be;
- (b) the identity of the child and the child's date of birth;
- (c) the habitual residence of the child prior to the alleged wrongful removal or retention;
- (d) the relationship of the plaintiff to the child;
- (e) the whereabouts or suspected whereabouts of the child;
- (f) the date on which and the place at which the child is alleged to have been wrongfully removed or retained;
- (g) the proceedings which gave custody to the plaintiff; and
- (h) the proceedings under the Convention in relation to which the originating summons is necessary.

(2) The statement of particulars shall be contained in the same document as the summons and shall follow at the foot or end thereof.

(3) There may be produced with the originating summons any relevant document.

Entry of
appearance.

7. (1) The time for lodging an acknowledgment of service of an originating summons stating an intention to contest the proceedings shall be seven days after the service of the originating summons, or in the case of a defendant referred to in paragraph (2)(d) or (e) of this rule, such further time as the court may direct.

(2) The defendants to an application under the Act shall be —

- (a) the person alleged to have brought the child into The Bahamas;
- (b) the person with whom the child is alleged to be;
- (c) any parent or guardian of the child who is within The Bahamas, and not otherwise a party;
- (d) the person in whose favour a decision relating to custody has been made if he is not otherwise a party; and
- (e) any other person who appears to the court to have sufficient interest in the welfare of the child.

(3) An originating summons shall specify a date within seven days after the expiry of the period of notice for a hearing to determine the further progress of the summons.

Evidence.

8. (1) The plaintiff, on issuing an originating summons under these Rules may lodge affidavit evidence in the Registry in support of his application and serve a copy of the same on the defendant with the originating summons.

(2) A defendant to an application may lodge affidavit evidence in the Registry and serve a copy of the same on the plaintiff within seven days after the day of service of the summons on him.

(3) The plaintiff in an application may within seven days after service lodge in the Registry an affidavit in reply and serve a copy thereof on the defendant.

9. Any application under this Act, other than an application to — Hearing.

- (a) join a defendant;
- (b) dispense with service or extend the time for acknowledging service; or
- (c) for the transfer of proceedings,

shall be heard and determined by a judge and shall be dealt with in Chambers, unless the court otherwise directs.

10. The court may dispense with — Dispensing with service or authentication.

- (a) service of a summons (whether ordinary or originating) in any proceedings under this Act;
- (b) the need for certification or authentication of any relevant decision or agreement.

11. The hearing of an originating summons under which an application under these Rules is made may be adjourned for a period not exceeding twenty-one days at any one time. Adjournment of summons.

12. An application for interim directions under section 5 of the Act may, where the case is one of urgency, be made *ex parte* on affidavit but shall otherwise be made by summons. Interim Directions.

13. At any stage in proceedings under the Act the court may, if it has reason to believe that any person may have relevant information about the child who is the subject of those proceedings, order that person to disclose such information and may for that purpose order that the person attend before it or file affidavit evidence. Orders for disclosure of information.

14. (1) Where an application is made under the Act and there are other proceedings relating to the merits of rights of custody of a child pending in or before a relevant authority, the party to the proceedings who has knowledge of this shall file in the Registry a concise statement of the nature of the application which is pending, including the authority before which it is pending. Stay of proceedings.

(2) The Registrar shall, on receipt of such a statement as is mentioned in paragraph (1), notify the relevant authority of the proceedings before the court and shall subsequently notify the relevant authority of the result of the proceedings.

(3) Where the court receives a statement under paragraph (1) of an application relating to the merits of rights of custody or such a notice from a relevant authority, all further proceedings in the action may be stayed by the court on such terms and conditions as the court thinks fit.

(4) Where the court stays an action pending a decision before a relevant authority, the Registrar shall notify the parties to the action of such stay and of any determination.

(5) Where an application has been made to the court under the Act and the court has reason to believe that a child has been taken to another State, the court may stay the proceedings or dismiss the application for the return of the child.

Translation of documents.

15. Where any document lodged pursuant to these Rules is in a language other than English, there shall be lodged with that document a translation into English certified as correct by the translator, and the certificate shall include the full name, address and qualifications of the translator.

Applications for certified copy or extract of decree.

16. An application for a certified copy or extract of any order or declaration of the court relating to a child, in respect of whom the applicant wishes to apply under the Convention in another Contracting State, shall be made by letter to the Registrar of the Supreme Court.

SCHEDULE

FORM 1

ORIGINATING SUMMONS FOR RETURN OF A CHILD

COMMONWEALTH OF THE BAHAMAS 200

IN THE SUPREME COURT No.

Civil Side

IN THE MATTER of an application by
under section 3 of the International Child Abduction Act, 1993

LET ALL PARTIES concerned attend before the Honourable Justice
in Chambers at the Supreme Court, in the City of
on the day of , A.D., 200 at
..... o'clock in the noon

or so soon thereafter on the hearing of the application by the Plaintiff thaton [date]
 [full name of person who allegedly removed/retainedchild]
 [nationality]
 of [last known address]
 wrongly removed or retained [full name of child]
 born [date of birth]
 from [last known habitual residence before removal/retention].

The Plaintiff prays that [full name of person presumed to have child]
 be ordered to return [name of child]
 to [name of person]
 at [full address]
 by [proposed arrangements for return of the child]

STATEMENT OF PARTICULARS

(See rule 4 for Particulars to be included)

Dated the day of, 200.....

This summons was taken out by of
 attorneys for the Plaintiff whose address is

This Summons was taken out by
 the said Plaintiff who resides at
 and is (state occupation) and whose address for service is

Note: If a defendant does not enter an appearance, such judgment may be given or order made against or in relation to him as the Court may think just and expedient.

DIRECTIONS FOR ENTERING AN APPEARANCE

The time limited for acknowledging service of an originating summons shall be seven days after the day of service of the originating summons or in the case of a defendant referred to in rule 7(2)(d) or (e), such time as the Supreme Court may direct.

