

CHAPTER 131**ADOPTION OF CHILDREN****SUPREME COURT (ADOPTION OF CHILDREN)
RULES***G.N. 43/1955*
*G.N. 140/1955***(SECTION 17)***[Commencement 24th February, 1955]*

1. (1) These Rules may be cited as the Supreme Court (Adoption of Children) Rules.

Short title and interpretation.

(2) In these Rules, the expression “applicant” includes either, as well as both, of two joint applicants.

2. All proceedings in the Supreme Court under the Act shall be part of the business to be disposed of in chambers by the judge.

Proceedings by judge in chambers.

3. An application for an adoption order shall be made by originating summons in Form 1. The proposed adopter shall be the applicant and the infant shall be the respondent. Such applications shall be dealt with by the Registrar of the Supreme Court and shall be brought before him for the appointment of a guardian *ad litem* under subsection (1) of section 18 of the Act:

Application for adoption order. Form 1.

Provided that if it appears that the applicant has previously made an application for an adoption order in respect of the same infant, the application shall not be proceeded with unless the judge is satisfied that there has been a substantial change in the circumstances since the previous application.

4. The originating summons must ask for the appointment of a guardian *ad litem* and must be supported by an affidavit by the applicant setting out the facts. The applicant may ask for the appointment of a particular person or body to act as guardian *ad litem* and the judge may appoint such person or body or such other person or body as he thinks fit to be the guardian *ad litem*.

Appointment of guardian *ad litem*.

Service of summons on guardian *ad litem*.

5. Upon appointment a copy of the summons shall be served upon the guardian *ad litem* who shall thereupon enter an appearance for the infant.

Order undertaking to pay costs.

6. At the time of entering such appearance the guardian *ad litem* may apply for and the judge may order an undertaking to be given by the applicant to pay such costs as may become payable under section 18 of the Act. Such undertaking may be in Form 2.

Evidence in support of application.

7. The evidence in support of the application for an adoption order shall be given by means of a statement in Form 3 and shall be verified by affidavit. Any document signifying the consent of any person to the making of the adoption order shall be in Form 4 and shall be exhibited to the affidavit.

Forms 3 and 4.

Evidence filed within 14 days.

8. The evidence shall be filed within fourteen days after the issue of the originating summons and a copy of the applicant's statement and of the documents attached thereto shall at the same time be served on the guardian *ad litem*.

Service of notice on parent or guardian.

9. In any case where the infant has been placed in the care and possession of the applicant the guardian *ad litem* shall, as soon as practicable after he has entered an appearance, serve a notice in Form 5 on any parent or guardian of the infant who has signified his consent to the making of an adoption order.

Form 5.

Investigation of circumstances.

10. It shall be the duty of the guardian *ad litem* to investigate as fully as possible all circumstances relevant to the proposed adoption with a view to safeguarding the interests of the infant before the court for that purpose; and in particular it shall be his duty —

Second Schedule.

- (a) to make enquiries as to all matters alleged in the applicant's statement and as to the additional matters specified in the Second Schedule to these Rules and to report to the court upon them;
- (b) to interview (either by himself or by an agent appointed by him for the purpose) every individual being an applicant for the order, or mentioned in the applicant's statement as a person to whom reference may be made, or a person on whom notice of the application is required to be served under rule 13, or (where

notice is required to be served on any local authority or other body) the appropriate officer of such authority or other body.

11. The guardian *ad litem*, any agent of his, and, where a local authority or other body is appointed as guardian *ad litem*, every officer of that authority or body, shall treat as confidential all information obtained in the course of the investigation, and shall not divulge any part of it to any other person except so far as may be necessary for the proper execution of his duty.

Confidential information.

12. The applicant shall obtain an appointment for the hearing of the application within fourteen days after being notified by the guardian *ad litem* that he has made his report to the court. If no appointment is obtained by the applicant the guardian *ad litem* shall obtain an appointment as soon as practicable for the hearing of the application.

Appointment for application.

13. On the application being adjourned to the judge, the guardian *ad litem* shall serve a notice in Form 6 on every person whose consent to the order is required under sections 6 and 7 of the Act.

Service of notice. Form 6.

14. On the hearing of the application any person on whom notice is required to be served under rule 13 may appear before the judge to show cause why an adoption order should not be made.

Appearance before judge.

15. Unless the court is satisfied that the applicant does not desire his identity to be kept confidential, the proceedings shall be conducted with a view to securing that he is not seen by or made known to any person (other than the spouse of the applicant) whose consent to the order is required.

Identity of applicant kept confidential.

16. On the making of an adoption order, the Registrar shall send a sealed copy of the order to the Registrar General and to the applicant within seven days after the order has been passed and entered.

Copy of order sent within 7 days.

17. An adoption order, and any copy of such an order sent to the Registrar General, shall be drawn up on paper of foolscap folio size, 13 inches by 8 inches, and shall have a margin to be left blank, not less than 1 inch wide, on the left side of the face of the paper and a similar margin on the right side of the reverse, if any.

Layout of adoption order.

Duplicate copies of order.

18. No duplicate or copy of an adoption order or interim order shall be given to or served upon any person other than the Registrar General or the applicant except by order of the judge.

Notify parties of outcome of proceedings.

19. Where an adoption order is made or refused or an interim order made, the guardian ad (item shall notify all parties who were not present when the order was made or refused, without disclosing the identity of the applicant unless he does not desire his identity to be kept confidential.

Further hearing of application.

20. Where the determination of an application is postponed and an interim order made, the applicant shall, at least two months before the expiration of the period specified in the interim order, obtain an appointment for the further hearing of the application, and the guardian ad (item shall serve a notice in Form 7 on every person on whom notice is required to be served under rule 13.

Form 7.

Guardian *ad litem* to obtain appointment.

21. If no appointment is obtained by the applicant as required by rule 20, the guardian *ad litem* shall obtain an appointment as soon as practicable for the further hearing of the application.

Ex parte amendment.

22. An order under subsection (10) of section 21 of the Act, for the amendment of an adoption order, may be made *ex parte*.

Amendment of adoption order.

23. Where an order for the amendment of an adoption order is made under subsection (10) of section 21 of the Act, the Registrar shall send to the Registrar General a notice specifying the date of the adoption order and the names of the adopter and of the adopted person (as described in the schedule to the adoption order) and stating what amendments are to be made in the particulars specified in that order.

Where local authority acts as guardian *ad litem*.

24. Where a local authority or other body is appointed under these Rules as guardian *ad litem*, anything required or authorised by these Rules to be done by the guardian *ad litem* may be done by any officer of the authority or body duly authorised in that behalf.

25. Any document under these Rules may be served — Service of documents.

- (a) on an individual, by delivering it to him personally, or by leaving it with some person for him at his last known or usual place of abode (whether in The Bahamas or elsewhere) or by sending it to him by registered post at that place;
- (b) on a local authority, on a registered adoption society or on any other body of persons, by delivering it at or sending it by registered post to the principal office of the authority, or the registered or principal office of the society or other body, as the case may be.

26. For the purposes of subsection (3) of section 7 of the Act, a document or declaration executed or made by any person outside The Bahamas shall be sufficiently attested if it is attested as follows — Attestation of document or declaration.

- (a) if the document or declaration is executed or made at any place in the United Kingdom, in the Channel Islands, in the Isle of Man, or in any colony, protectorate, protected state or United Kingdom trust territory, by any judge of any court of civil or criminal jurisdiction, any justice of the peace or magistrate or any person for the time being authorised by law in that place to administer an oath for any judicial or other legal purpose;
- (b) if the document or declaration is executed or made at any place in any of the countries mentioned in subsection (3) of section 1 of the British Nationality Act, 1948, or in the Republic of Ireland or in any mandated territory or trust territory administered by the government of any such territory, by any person for the time being authorised by law in that place to administer an oath for any judicial or other legal purpose;
- (c) if the document or declaration is executed or made at any other place, by any consular officer of Her Majesty's Government in the United Kingdom or, if there is no such consular officer, by any person authorised by the Secretary of State to administer the Oath of Allegiance for the purposes of section 6 or section 10 of the British Nationality Act, 1948;

(d) if the person by whom the document is executed or made is serving in any of Her Majesty’s Naval, Military or Air Forces, by any officer holding a commission in any of those forces.

Leave to remove from care of applicant.

27. An application under subsection (4) of section 7 of the Act for leave to remove the infant from the care and possession of the applicant shall be made to the judge, and notice thereof shall be served on the guardian *ad litem*.

Judge may dismiss application.

28. Where leave to remove the infant from the care and possession of the applicant is granted under subsection (4) of section 7 of the Act, the judge may, upon granting leave, dismiss the application for the adoption order.

Numbering of forms. First Schedule.

29. A form referred to by number means the form so numbered in the First Schedule to these Rules.

FIRST SCHEDULE (Rule 3)

FORM 1

ORIGINATING SUMMONS ON APPLICATION FORM

Adoption Order 19, No
In the Supreme Court

In the Matter of (.....) and infant and

In the Matter of the Adoption of Children Act (Ch. 131).

Let of within eight days after service of this Summons inclusive of the day of such service, cause an appearance to be entered for him to this Summons which is issued upon the application of....., of for an order:

1. That a guardian *ad litem* may be appointed for the purpose of safeguarding the interests of the said (.....)
2. That the applicant be authorised to adopt the said (.....).
3. That the costs of this application be provided for.

Dated the day of 19

This Summons was taken out by of Attorney for the above-named The Respondent may appear hereto by entering appearance either personally or by Attorney at the Registrar’s Office of the Supreme Court.

If the Respondent does not enter appearance within the time and at the place above mentioned, such order will be made and proceedings taken as the judge may think fit and expedient.

FORM 2 (Rule 6)

UNDERTAKING TO PAY COSTS OF THE GUARDIAN *AD LITEM*

In the Supreme Court

In the Matter of (.....) and infant and
In the Matter of the Adoption of Children Act (Ch. 131).

In consideration of your acting as the guardian *ad litem* of an infant, I, the undersigned hereby undertake and agree that as such guardian *ad litem* for the said you will duly receive and be paid all costs, charges and expenses which may become payable in relation to such guardianship.

Dated this day of 19

Signed

FORM 3 (Rule 7)

STATEMENT IN SUPPORT OF APPLICATION FOR AN ADOPTION ORDER¹

In the Supreme Court

In the Matter of (.....) and infant and
In the Matter of the Adoption of Children Act (Ch. 131).

I, the undersigned, /We, the undersigned and desire to adopt
.....² an infant under the Adoption of Children Act (Ch. 131).

2. I am/We are resident in The Bahamas.

G.N. 140/1955.

3. I am unmarried/a Widow/Widower/I am married to of /We are married to each other and are the persons to whom the attached marriage certificate (or other evidence of marriage) relates.

¹ This statement must be verified by affidavit, to which the statement, marriage certificate and other documents referred to in the statement should be exhibited.

² Enter the first names) and surname as shown in the birth certificate referred to in paragraph 4, if available; otherwise enter name(s) and surname by which the infant was known before being placed for adoption.

4. The infant is of the sex and unmarried. He/She was ³ (Enter the name(s) and surname which the infant is to bear after the adoption) born on the 19 and is the person to whom the attached birth certificate ⁴ relates/was born on or about the 19 in

5. The infant is the child/adopted child ⁶ of of/whose last address was deceased (and of /whose last address was deceased) ⁷.

6. The guardian of the infant is of; the guardians of the infant are ⁸ of and of

(7..... of is liable by virtue of an order or agreement to contribute to the maintenance of the infant.) ⁹.

8. I/We attach a document/documents signifying the consent of the said ¹⁰ to the making of an adoption order upon my/our application.

9. I/We request the judge ¹¹ to dispense with the consent of the said on the following grounds:

(10. The infant was received into my/our care and possession on the 19, from of and has been in my/our care and possession since that date.) ¹².

³ This statement must be verified by affidavit, to which the statement, marriage certificate and other documents referred to in the statement should be exhibited.

⁴ If the infant has previously been adopted, a certified copy of the entry in the Adopted Children Register should be attached, and not a certified copy of the original entry in the Register of Births; and the particulars given in paragraph 5 should relate to the parent or parents by adoption and not to the natural parent or parents.

⁵ Where a birth certificate is not attached, enter the place (including country) of birth, if known.

⁶ If the infant has previously been adopted, a certified copy of the entry in the Adopted Children Register should be attached, and not a certified copy of the original entry in the Register of Births; and the particulars given in paragraph 5 should relate to the parent or parents by adoption and not to the natural parent or parents.

⁷ If the infant is illegitimate, the father's name should not be given in this entry; but see paragraph 7.

⁸ This paragraph should be completed only if the infant has a legal guardian other than the father or mother of the infant.

⁹ If the infant is illegitimate, enter the name of any person known to the applicant who has been adjudged by the affiliation order to be the putative father of the infant or who has acknowledged himself to be the father of the infant and agreed to contribute to his or her maintenance.

¹⁰ The names to be entered here (or in the following paragraph) are those of the persons named in paragraphs 5, 6 and 7, and (where application is made by one of two spouses alone) of the spouse of the applicant.

¹¹ This paragraph should be completed with the name of any of the persons mentioned in the previous note who has not signified his or her consent. See subsection (1) of section 7 of the Act as to grounds.

¹² This paragraph need not be completed if the infant has not been in the care and possession prior to and during the application.

(11. A certificate as to the physical and mental health of the infant, signed by a registered medical practitioner on the 19, is attached.)¹³.

12. I/We have not received or agreed to receive, and no person has made or given or agreed to make or give to me/us, any payment or other reward in consideration of the adoption (except as follows:).

13. I have not made/Neither of us has made a previous application for an adoption order in respect of the same or any other infant to any court (except an application made to the court at on the 19, which was dealt with as follows:).

(14. For the purposes of my/our application reference may be made to of)¹⁴.

(15. Further particulars of myself/ourselves are set out in the annex to this statement.)

16. If an adoption order is made in pursuance of my/our application, it is proposed that the infant should be known as

Dated this day of 19
(Usual signature of applicant/applicants.)

ANNEX TO FORM 3

FURTHER PARTICULARS OF APPLICANT OR APPLICANTS

Particulars of

Names in full (Block capitals)

Address:

Occupation

Date of birth

Relationship (if any) to the infant.....

Particulars of

Name in full (Block capitals)

Address

Occupation

Date of birth

Relationship (if any) to the infant

¹³ This paragraph need not be completed if the applicant or either of the applicants is a “relative” of the infant as defined by section 2 of the Act.

¹⁴ This paragraph need not be completed if the applicant or either of the applicants is a “relative” of the infant as defined by section 2 of the Act.

FORM 4 (Rule 7)

CONSENT TO AN ADOPTION ORDER IN RESPECT OF AN
INFANT NAMED

.....¹⁵

Whereas an application is to be made by

[Whereas the said (hereafter called the infant) is not less than six weeks old, having been born in on the 19, and is the person to whom the birth certificate¹⁶ now produced and shown to me marked “A” relates]¹⁷:

I, the undersigned of, being¹⁸ -

- (i) the mother¹⁹ of the infant; or
- (ii) the father²⁰ of the infant;
- (iii) a guardian of the infant; or
- (iv) a person liable by virtue of any order or agreement to contribute to the maintenance of the infant; or
- (v) a person (acting on behalf of a body) having parental rights in respect of the infant; or
- (vi) the spouse of the said here state as follows-

- (1) I understand that the effect of an adoption order is to deprive a parent or guardian of all rights in respect of the maintenance and upbringing of the infant.
- (2) I understand that, when the application for an adoption order in respect of the said is heard by the judge, this document may be used as

¹⁵ Insert the name as known to the consenting party.

¹⁶ If the infant has previously been adopted, a certified copy of the entry in the Adopted Children Register should be attached and not a certified copy of the original entry in the Register of Births; and the description of the consenting party include the words “by adoption” where appropriate.

¹⁷ Delete the words in square brackets except where the consenting party is the mother of the infant.

¹⁸ Delete all but one of the descriptions which follows.

¹⁹ If the infant has previously been adopted, a certified copy of the entry in the Adopted Children Register should be attached and not a certified copy of the original entry in the Register of Births; and the description of the consenting party include the words “by adoption” where appropriate.

²⁰ If the infant has previously been adopted, a certified copy of the entry in the Adopted Children Register should be attached and not a certified copy of the original entry in the Register of Births; and the description of the consenting party include the words “by adoption” where appropriate.

evidence of my consent to the making of the order unless I have notified the court that I no longer consent²¹.

- (3) I hereby consent to the making of an adoption order in pursuance of the said application [on condition that the religious persuasion in which the infant is brought up is].²²

(Signature)

Signed at ²³ on, by the said [who satisfied me that she fully understood the nature of the foregoing statement and was prepared to surrender her child for adoption].²⁴

Before me.....

(Signature)

(Address)

(Description)²⁵

FORM 5 (Rule 9)

NOTICE OF APPLICATION FOR AN ADOPTION ORDER
IN RESPECT OF AN INFANT NAMED²⁶
TO of²⁷

Whereas an application has been made by

And Whereas I, of am the guardian *ad litem* of the said infant;

Take notice that while the said application is pending, you must not, except with the leave of the judge, remove the infant from

²¹ If the consenting party is the mother of the infant, the document will not be admissible as evidence unless the signature is attested by a justice of the peace (or, if executed abroad, by an officer authorised by the Supreme Court (Adoption of Children) Rules-see note (7). In all cases the document, if so attested, will be admissible without further proof of execution.

²² Delete the words in square brackets if the applicant is named, or if, although the applicant is not named, the consenting party does not desire to impose conditions as to religious upbringing.

²³ Where the document is executed outside The Bahamas, attestation in accordance with rule 26 of the Supreme Court (Adoption of Children) Rules has the same effect as attestation by a justice of the peace or a notary public.

²⁴ Delete the words in square brackets except where the consenting party is the mother of the infant.

²⁵ If the consenting party is the mother of the infant, the document will not be admissible as evidence unless the signature is attested by a justice of the peace (or, if executed abroad, by an officer authorised by the Supreme Court (Adoption of Children) Rules-see note (7). In all cases the document, if so attested, will be admissible without further proof of execution.

²⁶ Enter the name(s) and surname as known to the person to whom the notice is given.

²⁷ Enter the name and address of any parent or guardian of the infant who has signified his consent to the making of an adoption order.

the care and possession of the applicant. Application for such leave may be made to the judge, The Registrar’s Office, Supreme Court, Nassau, Bahamas.

Dated the day of 19
(Signature of Guardian ad litem)

FORM 6 (Rule 13)

NOTICE OF HEARING OF APPLICANT FOR AN
ADOPTION ORDER IN RESPECT OF AN
INFANT NAMED ²⁸

To of

Whereas an application has been made by

And Whereas I, of am guardian *ad litem* of the said infant;

Take notice that the said application will be heard at the Supreme Court, Nassau, Bahamas, on the 19, at the hour of in the noon and that you may appear to show cause why the adoption order should not be made.

Dated this day of 19
(Signature of Guardian ad litem)

FORM 7 (Rule 20)

NOTICE OF FURTHER HEARING OF APPLICATION FOR
AN ADOPTION ORDER IN RESPECT OF AN INFANT
NAMED ²⁹

To of

Whereas an application has been made by

And Whereas I, of

..... and the guardian *ad litem* of the said infant:

And Whereas the determination of the said application was postponed and an interim order was made by the judge on the 19

Take notice that the said application will be further heard before the judge at the Supreme Court, Nassau, Bahamas, on the 19, at the hour of in the

²⁸ Enter the name(s) and surname as known to the person to whom the notice is given.

²⁹ Enter name(s) and surname as known to the person to whom the notice is given.

..... noon and that you may appear to
show cause why the adoption order should not be made.

Dated the day of 19
(*Signature of Guardian ad litem*)

SECOND SCHEDULE (Rule 10)

ADDITIONAL MATTERS SUBJECT TO INVESTIGATION AND REPORT BY GUARDIAN *AD LITEM*

PART I THE APPLICANT

1. In the case of a joint application, how long the applicants have been married.
2. In the case of an application by one only of two spouses —
 - (a) whether the other spouse consents to the application; and
 - (b) why he or she does not join in the application.
3. What other children (including adopted children) the applicant has.
4. What is the age and sex of all children living in the home of the applicant and what is their relationship to the applicant.
5. What number of living rooms and bedrooms are contained in the home of the applicant, and what is the condition of the home.
6. What are the means of the applicant.
7. Whether the applicant suffers or has suffered from any serious illness, and whether there is any history of tuberculosis, epilepsy or mental illness in his or her family.
8. Whether any person specified in the applicant's statement as a person to whom reference may be made is a responsible person and recommends the applicant without reservation.
9. Whether the applicant understands that an adoption order is irrevocable and that the order if made will render him or her responsible for the maintenance and upbringing of the infant.

PART II THE INFANT

10. Whether the infant has any right to or interest in any property.
11. Whether the infant (if of an age to understand the effect of an adoption order) wishes the order to be made.

PART III
THE PARENTS

12. Whether the mother consents to the adoption and identifies the birth certificate (if any) attached to the applicant's statement as the birth certificate of the infant.

13. Whether the father consents to the adoption.

14. If the infant is illegitimate, whether an affiliation order has been made against any person adjudged to be the putative father of the infant, or an agreement to contribute to the maintenance of the infant has been made by a person acknowledging himself to be the father of the infant, and in either case whether that person consents to the adoption.

15. When did the parent or parents part with the infant, and to whom.

16. What are the reasons of the parent or parents for consenting to the adoption, and whether his or their consent is given without pressure from other persons.

17. Whether the parent, or each of the parents, understands that an adoption order is irrevocable, and that the order if made will deprive him or her of all rights in respect of the maintenance and upbringing of the infant.

18. Where the applicant's statement requests the judge to dispense with the consent of the parent, or either of the parents, on the ground that he or she cannot be found, what steps have been taken to trace him or her.