

THE CHILDREN (ADOPTION OF) ACT

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CHILDREN (ADOPTION OF)

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SCHEDULES

THE CHILDREN (ADOPTION OF) ACT

[2nd January, 1958.]

Law
75 of 1956.
Acts
2 of 1964,
42 of 1969
3rd Sch.
37 of 1974,
41 of 1975
2nd Sch.,
36 of 1976
Sch.
1 of 1979,
1st Sch.
15 of 1982.

1. This Act may be cited as the Children (Adoption of) Act. Short title.

2.—(1) In this Act—

“adopter” means a person who is proposing to adopt, or who has adopted a child in pursuance of an adoption order;

“adoption order” means an order made under section 9;

“child” means a person under the age of eighteen years who has never been married; 1/1979
1st Sch.

“Court” means any court having jurisdiction to make adoption orders under this Act (and, accordingly, shall be construed in a manner consistent with paragraph (a) of subsection (2)); 41/1975
2nd Sch.

“guardian” in relation to a child means a person appointed by deed or will or by a court of competent jurisdiction, to be his guardian;

“relative” in relation to any child, means a grandparent, brother, sister, uncle, aunt, whether of the full blood, of the half blood or by affinity, and includes, where an adoption is made in respect of the child or any other person, any person who would be a relative of the child within the meaning of this definition if the adopted person were the child of the adopter born in wedlock. 36/1976
Sch.

L.Nn.
149/78
64/80

(2) In this Act any reference—

(a) to a Resident Magistrate's Court, in so far as such reference may, apart from this subsection, relate to a Resident Magistrate's Court—

(i) for a Corporate Area parish, shall (as respects any time on or after the 13th day of November, 1978) be construed as a reference to the Family Court—Corporate Area Region; and

(ii) for a parish within the geographical jurisdiction of a Family Court established pursuant to Part II of the Judicature (Family Court) Act, shall (as respects any time on or after the date on which such Court is established) be construed as a reference to that Family Court;

(b) to a Resident Magistrate, in so far as it may, apart from this subsection, relate to a Resident Magistrate—

(i) for a Corporate Area parish, shall (as respects any time on or after the 13th day of November, 1978) be construed as a reference to a Judge of the Family Court—Corporate Area Region; and

(ii) for a parish within the geographical jurisdiction of a Family Court established pursuant to Part II of the Judicature (Family Court) Act, shall (as respects any time on or after the date on which such Court is established) be construed as a reference to a Judge of that Family Court.

(3) In subsection (2), "Corporate Area parish" means the parish of Kingston or the parish of Saint Andrew.

3.—(1) For the purposes of this Act a Board to be called the Adoption Board (in this Act hereinafter referred to as the Board) shall be established which shall consist of a chairman and not more than nine other members to be appointed by the Minister.

Establish-
ment of
Adoption
Board.

(2) A member of the Board shall hold office for such period not exceeding two years, as may be specified in the instrument appointing him, so, however, that the Minister may revoke his appointment before the expiration of such period, if he considers it expedient so to do.

37/1974
S. 2 (a).

(3) At any meeting of the Board from which the chairman is absent the members present shall appoint one of their number to officiate as chairman of that meeting.

(4) The quorum of the Board shall be five.

(5) The Minister may appoint any person to act in the place of any member of the Board in case of the absence or inability to act of such member.

(6) The Board shall have power to regulate their own procedure.

(7) (a) The Board may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, agents and servants as it thinks necessary for the proper carrying out of its functions under this Act:

37/1974
S. 2 (b).

Provided that no appointment to any post to which an annual salary in excess of four thousand dollars is assigned, shall be made without the prior approval of the Minister.

(b) The expenses of the Board (including the remuneration of the staff thereof) shall be defrayed out of sums provided for the purpose in the annual estimates of revenue and expenditure of the Island as approved by the House of Representatives.

Expenses
of Board.

(8) The Board may appear and be represented at any stage of the proceedings in a Court by one of their officers or by any person generally or specially authorized by the Board.

Restriction
on making
arrangement
for the
adoption of
children.

4.—(1) Subject to the provisions of section 5 of this Act, if any person takes part in arranging an adoption for gain or reward or in the management or control of a body of persons other than the Board which exists wholly or in part for the purpose of making arrangements for the adoption of children, he shall, on summary conviction before a Resident Magistrate be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding four hundred dollars, or to both such imprisonment and such fine.

(2) For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a child if he, not being the parent or guardian of the child, enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected or is intended to be effected, in pursuance of an adoption order or otherwise, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another so to do.

Duties of
Board.

5. It shall be the duty of the Board—

- (a) to make arrangements for the adoption of children and for that purpose to receive applications from parents, guardians and adopters;
- (b) to do such things and make such investigations concerning the adoption of children for the consideration of the Court as may be prescribed under section 8.

Provisions
relating to
arrange-
ments made
by Board.
2/1964
S. 3.

6.—(1) Where arrangements are made by the Board for the adoption of a child, an application to the Court for an adoption order in respect of the child shall not be made by the adopter until the expiration of a period of three months from the date upon which the child is delivered into the care

and possession of the adopter pursuant to the arrangements and at any time during that period—

- (a) the adopter may give notice in writing to the Board of his intention not to adopt the child; or
- (b) the Board may cause notice in writing to be given to the adopter of their intention not to allow the child to remain in the care and possession of the adopter,

and where a notice is so given, the adopter shall, within seven days of the date on which the notice was given, cause the child to be returned to the Board for the purpose of restoring the child to the parents or guardian.

(2) The Board shall appoint one or more persons whose duty shall be to keep the child under close supervision during the said period of three months in accordance with regulations made under this Act. 2/1964
S. 3.

(3) If, at the expiration of the said period of three months, no notice has been given as aforesaid, the adopter shall within three months from the date upon which that period so expired apply to the Court for an adoption order in respect of the child or shall give notice in writing to the Board of his intention not to apply for such an order, and, where notice is so given or where an application for an adoption order in respect of the child is refused by the Court, the adopter shall, within seven days of the date on which the notice was given or of the date upon which the application is so refused, as the case may be, cause the child to be returned to the Board for the purpose of restoring the child to the parents or guardian. 2/1964
S. 3.

(4) Any person who contravenes the provisions of this section shall be liable, on summary conviction before a Resident Magistrate, to imprisonment for a term of six months, or to a fine of one hundred dollars or to both such imprisonment and such fine, and the Court by which the offender is convicted may order any child in respect of

whom the offence is committed to be returned to his parents or guardian or to the Board.

Appeals by persons desirous of adopting children.

7. Where any person has made representations to the Board with a view to the adoption of a child, and the Board are of the opinion that the adoption of the child by such person would not be in the best interests of the child, the Board shall notify such person accordingly, and such person may appeal from the decision of the Board to a Judge in Chambers.

Regulations.

8.—(1) The Minister may make regulations—

(a) for regulating the conduct of negotiations entered into by or on behalf of the Board with persons having the care and possession of children who are desirous of causing children to be adopted, and in particular for securing—

(i) that, where the parent or guardian of a child proposes to place the child at the disposition of the Board with a view to the child being adopted, he shall be furnished with a memorandum in the prescribed form explaining in ordinary language the effect, in relation to his rights as a parent or guardian, of the making of an adoption order in respect of the child, and calling attention to the provisions of this Act and of any rules made hereunder relating to the consent of a parent or guardian to the making of such an order; and

(ii) that, before so placing the child at the disposition of the Board, the parent or guardian shall sign a document in the prescribed form verifying that he has read or had read and understood the said memorandum;

- (b) for requiring that the case of every child proposed to be delivered by or on behalf of the Board into the care and possession of an adopter shall be considered by a committee (to be called a "case committee") comprised of not less than three members of the Board;
- (c) for prescribing, in the case of every such child as aforesaid, the inquiries which must be made and the reports which must be obtained by the Board in relation to the child and the adopter for the purpose of ensuring, so far as may be, the suitability of the child and the adopter respectively, and, in particular, for requiring that a report on the health of the child and prospective adopter signed by a duly qualified medical practitioner must be obtained by the Board;
- (d) for securing that no such child shall be delivered into the care and possession of an adopter by or on behalf of the Board until the adopter has been interviewed by the case committee or by some person on their behalf, until a representative of the committee has inspected any premises in the Island in which the adopter intends that the child should reside permanently, and until the committee have considered the prescribed reports;
- (e) for making provision for the care and supervision of children who have been placed by their parents or guardians at the disposition of the Board;
- (f) generally for carrying out the purposes of this Act.

(2) Any person who contravenes or fails to comply with any of the provisions of a regulation made under this section shall be liable, on summary conviction before a Resident Magistrate, to a fine of fifty dollars and, in the case of a second or subsequent conviction, to a fine of one hundred dollars.

(3) Until varied or revoked by regulations made by the Minister under the provisions of subsection (1), the Regulations contained in the First Schedule shall be in force.

First
Schedule.

Power to
make
adoption
orders.

9.—(1) Subject to the provisions of this Act, the Court may, upon an application made in the prescribed manner by a person domiciled in the Island make an order authorizing the applicant to adopt a child.

(2) An adoption order may be made on the application of two spouses authorizing them jointly to adopt a child.

(3) An adoption order may be made authorizing the adoption of a child by the mother or father of the child, either alone or jointly with her or his spouse.

Restrictions
on making
adoption
orders.

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

- (a) has attained the age of twenty-five; or
- (b) has attained the age of eighteen and is a relative of the child; or
- (c) is the mother or father of the child.

1/1979
1st Sch.

(2) An adoption order shall not be made in respect of a child who is a female in favour of a sole applicant who is a male, unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

(3) Except as provided by subsection (2) of section 9, an adoption order shall not be made authorizing more than one person to adopt a child.

(4) Subject to the provisions of section 11, an adoption order shall not be made—

- (a) in any case, except with the consent of every person who is a parent or guardian of the child or

who is liable by virtue of any order or agreement to contribute to the maintenance of the child;

- (b) on the application of one of two spouses, except with the consent of the other spouse.

(5) Subject to subsection (6), an adoption order shall not be made unless the applicant and the child reside in the Island. 2/1964
S. 4 (a).

(6) An adoption order may be made on the application of a person who, although domiciled in Jamaica, is not ordinarily resident in Jamaica; so, however, that in relation to such an application the provisions of this Act shall be modified by the substitution in subsections (1), (2) and (3) of section 6 of the words "period of six months" for the words "period of three months". 2/1964
S. 4 (b).

11.—(1) The Court may dispense with any consent required by paragraph (a) of subsection (4) of section 10 if it is satisfied— Consent to
adoption.

- (a) in the case of a parent or guardian of the child, that he has abandoned, neglected or persistently ill-treated the child or has persistently failed without reasonable cause— 2/1964
S. 5.

(i) to discharge the obligations of a parent or guardian of the child; or

(ii) to demonstrate interest in the child;

- (b) in the case of a person liable by virtue of an order or agreement to contribute to the maintenance of the child, 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 or for any other reason such consent should be dispensed with.

(2) The Court may dispense with the consent of the spouse of an applicant for an adoption order if satisfied

that the person whose consent is to be dispensed with cannot be found or is incapable of giving the consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(3) The consent of any person to the making of an adoption order in pursuance of an application (not being the consent of the child) may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the child 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.

(4) While an application for an adoption order in respect of a child is pending in any Court, any parent or guardian of the child 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 child 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 child.

Interim
orders.

12.—(1) Subject to the provisions of this section, the Court may, upon an application for an adoption order, postpone the determination of the application and make an interim order giving the custody of the child 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 child 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.

(3) An interim order shall not be deemed to be an adoption order within the meaning of this Act.

13.—(1) Where any person whose consent to the making of an adoption order is required by paragraph (a) of subsection (4) of section 10 does not attend in the proceedings for the purpose of giving it, then, subject to the provisions of subsection (3), a document signifying his consent to the making of such an order shall, if the person in whose favour the order is to be made is named in the document or (where the identity of that person is not known to the consenting party) is distinguished therein in the prescribed manner, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings.

Evidence
of consent
of parent
or guardian.

(2) Where any such document is attested by a Justice of the Peace the document shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed; and for the purposes of this subsection, a document purporting to be attested as aforesaid 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.

(3) A document signifying the consent of the mother of a child shall not be admissible under this section unless—

- (a) the child 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.

14.—(1) 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,

Functions of
Court as to
adoption
orders.

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;

- (b) that the order if made will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child; 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.

(2) 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 child such provision (if any) as in the opinion of the court is just and expedient.

Effects of adoption orders

Rights and duties of parents and capacity to marry.

15.—(1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the child in relation to the future custody, maintenance and education of the child, including all rights to appoint a guardian and 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 if the child were a child born to the adopter in lawful wedlock; and in respect of the matters aforesaid the child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.

(2) In any case where two spouses are the adopters, the 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 child in the same relation as they would have stood if the child had been born to them, and the child's relationship to them respectively shall be determined accordingly.

36/1976
Sch.

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

16.—(1) Where an adoption order is made in respect of a child who is not born in lawful wedlock, then, subject to the provisions of this section, any affiliation order or decree of affiliation in force with respect to the child, and any agreement whereby the father of the child has undertaken to make payments specifically for the benefit of the child, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the order, decree or agreement at the date of the adoption order.

Affiliation
orders, etc.
36/1976
Sch.

(2) Where a child to whom any such order, decree or agreement as aforesaid relates is adopted by his mother, and the mother is a single woman, the order shall not cease to have effect by virtue of the foregoing subsection upon the making of the adoption order, but shall cease to have effect if she subsequently marries.

17.—(1) 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

Intestacies,
wills and
settlements.

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.

(2) 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 a child or children of the adopter shall, unless the contrary intention appears, 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, unless the contrary intention appears, be construed as not being, or as not including, a reference to the adopted person; and
- (c) any reference (whether express or implied) to a person related to the adopted person in any degree shall, unless the contrary intention appears, 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.

Provisions
supple-
mentary to
section 17.

18.—(1) For the purposes of the devolution of any property in accordance with the provisions of section 17, 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 related to 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—

- (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) For the purposes of subsection (2) of section 17 and of subsection (4) a disposition made by will or codicil shall be treated as made on the date of the death of the testator. ^{2/1964}
S. 6(a).

(3) Notwithstanding anything in section 17, 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.

(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 the last foregoing section 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 or taking effect on the death of a person dying after that date. ^{2/1964}
S. 6(b).

(5) Subsection (2) shall not apply in relation to a disposition made by will or codicil executed before the 5th March, 1964, unless the will or codicil is confirmed by codicil executed after that date. ^{2/1964}
S. 6(c).

2/1964
S. 6 (c).

(6) Where an adoption order is made prior to the 5th March, 1964, a disposition made by will or codicil executed before the date of such adoption order shall, notwithstanding any rule of law, not be treated for the purposes of section 17 as made after the date of the adoption order by reason only that, before the 5th March, 1964, the will or codicil was confirmed by a codicil executed after the date of the adoption order.

Power to
make subse-
quent order
in respect
of child
already
subject to
an order.
2/1964
S. 7.

19. An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order, and, upon any application for such further adoption order or interim order, the adopter or adopters under the adoption order last previously made shall be deemed to be the parent or parents of the child for all the purposes of this Act.

Legitima-
tion.
37/1974
S. 3.

19A—(1) Where a person adopted by his father or mother alone has subsequently been legitimated on the marriage of his father and mother in accordance with the provisions of the Legitimation Act, the Court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.

(2) Where an adoption order is revoked under this section, the Court shall cause the revocation to be communicated to the Registrar-General, who shall cause to be cancelled—

- (a) the entry in the Adopted Children Register relating to the adopted person; and
 - (b) the marking with the word “adopted” of any entry relating to him in the Register of Births,
- and a copy or extract of an entry in any register, being an entry 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.

20.—(1) The Court having jurisdiction to make adoption orders under this Act shall be the Supreme Court of Judicature or at the option of the applicant, any Resident Magistrate's Court within the jurisdiction of which either the applicant or the child resides at the date of the application for the adoption order.

Jurisdiction
and
procedure.

(2) Rules directing the manner in which applications to the Supreme Court are to be made, for regulating appeals under section 7, and dealing generally with all the matters of procedure therein, and incidental matters arising out of this Act, and for carrying this Act into effect shall be made by the Rules Committee of the Supreme Court.

42/1969
3rd Sch.

(3) Rules directing the manner in which applications to the Resident Magistrate's Court are to be made and dealing generally with all matters of procedure therein shall be made by Resident Magistrates authorized to make rules under section 135 of the Judicature (Resident Magistrates) Act.

(4) Rules under this section may provide for applications for adoption orders being heard and determined otherwise than in open Court.

(5) Until varied or revoked by rules made under subsection (2) or subsection (3), the rules contained in the Second Schedule shall be in force.

Second
Schedule.

20A—(1) An appeal shall lie to the Court of Appeal from an order made by any Court referred to in subsection (1) of section 20 (hereinafter referred to as the Court of first instance), or from any refusal to make such order, or from the revocation, revival, or variation of such an order.

Appeal.
37/1974
S. 4.

(2) The Court of Appeal may, upon the hearing of the appeal, confirm, reverse, or modify the decision of the Court of first instance or remit the matter, with the opinion of the Court of Appeal thereon or for rehearing generally,

[The inclusion of this page is authorized by L.N. 60/1976]

to the Court of first instance, or may make such order as the Court of Appeal may think just, and may by such order exercise any power which the Court of first instance might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Court of first instance.

(3) The Court of Appeal may also make such order as to costs to be paid by either party as the Court of Appeal may think just.

Restriction
on adver-
tisements.

21.—(1) It shall not be lawful for any advertisement to be published indicating that—

- (a) the parent or guardian of a child is desirous of causing the child to be adopted; or
- (b) a person is desirous of adopting a child, or any person (not being the Board) is willing to make arrangements for the adoption of a child.

(2) Any person who causes to be published, or knowingly publishes an advertisement in contravention of the provisions of this section shall be liable, on summary conviction before a Resident Magistrate to a fine not exceeding one hundred dollars.

Provisions
as to
existing
de facto
adoptions.

22. Where at the date of the commencement of this Act any child 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 male and the child a female, make an adoption order authorizing him, her or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being satisfied after inquiry by the Board that in all the

circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

23.—(1) It shall not be lawful for any person, in connection with any arrangements made for the adoption of a child who is a citizen of Jamaica, to permit, or to cause or procure, the care and possession of the child to be transferred to a person who is not a citizen of a scheduled country or the guardian or a relative of the child and who is resident outside the Island.

Restriction
on sending
children
abroad for
adoption.
2/1964
S. 8 (a).

(2) It shall not be lawful for any person, in connection with any such arrangements as aforesaid, to permit, or to cause or procure, the care and possession of such a child as aforesaid to be transferred to a person who is a citizen of a scheduled country resident outside the Island and who is not the guardian or a relative of the child, unless a licence has been granted in respect of the child under section 24.

2/1964
S. 8 (b).

(3) Any person who contravenes the provisions of this section shall be liable on summary conviction before a Resident Magistrate to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred dollars or to both.

(4) In any proceedings under this section, a report by a Jamaican or British consular officer or a deposition made before a Jamaican or British consular officer and authenticated under the signature of that officer shall be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

(5) For the purposes of this section and of section 24 "scheduled country" means a country specified in the Fifth Schedule.

2/1964
S. 8 (c).

Fifth
Schedule.

2/1964
S. 8 (c).

(6) The Minister may from time to time by order amend the Fifth Schedule.

Licence to
send child
abroad for
adoption.
Third
Schedule.
2/1964
S. 9.

24.—(1) A Resident Magistrate may grant a licence in the form appearing in the Third Schedule, and subject to such conditions and restrictions as he thinks fit, authorizing the care and possession of a child for whose adoption arrangements have been made to be transferred to a citizen of a scheduled country resident outside the Island; but subject to the provisions of this section no such licence shall be granted unless the Resident Magistrate—

- (a) is satisfied that the application is made by or with the consent of every person who is a parent or guardian of the child in question, or who has the actual custody of the child, or who is liable to contribute to the support of the child; and
- (b) is satisfied by a report of a Jamaican or British consular officer or any other person who appears to the Resident Magistrate to be trustworthy that the person to whom the care and possession of the child is proposed to be transferred is a suitable person to be entrusted therewith, and that the transfer is likely to be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child.

(2) The Resident Magistrate may dispense with any consent required by paragraph (a) of subsection (1) if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the child or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the Resident Magistrate and in all the circumstances of the case, to be dispensed with.

(3) Where a Resident Magistrate grants a licence under this section, he may authorize the making or receipt by any person of any payments in consideration of the transfer of the care and possession of the child in respect of whom the licence is granted.

(4) Rules with respect to the application for and grant of licences are set out in the Third Schedule, and such rules may be added to, varied or revoked by rules made under or by virtue of subsection (3) of section 20.

Third
Schedule.
42/1969
3rd Sch.

(5) In any proceedings under this section, a report by a Jamaican or British consular officer or a deposition made before a Jamaican or British consular officer and authenticated under the signature of that officer shall be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

25.—(1) The Registrar-General appointed under the provisions of the Registration (Births and Deaths) Act shall establish and maintain at his office 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.

Adopted
Children
Register.

(2) Every adoption order shall contain a direction to the Registrar-General to make in the Adopted Children Register an entry recording the adoption in the form set out as Form A in the Fourth Schedule.

37/1974
S. 5 (a).
Fourth
Schedule.

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

- (a) where the precise date of the child's birth is not proved to the satisfaction of the Court the Court shall determine the probable date of his birth and the date so determined shall be specified in the order as the date of his birth;

- (b) where the name or surname which the child 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 name,

and where the country of birth of the child is not proved to the satisfaction of the Court, the particulars of that country may be omitted from the order and from the entry in the Adopted Children Register.

15/1982
S. 2 (a).

(3A) In addition, for the purpose of completing a certificate pursuant to subsection (6)—

- (a) where the place of birth of the child is not proved to the satisfaction of the Court, the Court shall deem the place of birth to be either—
- (i) if the registration district in which the child was born is proved to the satisfaction of the Court, that district; or
 - (ii) in any other case, the place in which the Court granting the adoption order is situated; and

- (b) where the registration district in which the child was born is not proved to the satisfaction of the Court, the Court shall deem the registration district to be the registration district in which the Court granting the adoption is situated,

and for the purpose of this subsection, in default of other reliable information with regard to the parish of birth and place of birth, the adoption record of the Court granting the adoption order shall be deemed to be the Register Book with respect to the parish of birth and place of birth.

(4) The Court shall cause every adoption order to be communicated to the Registrar-General, and upon receipt of such communication the Registrar-General 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.

(5) A certified copy of any entry in the Adopted Children Register if purporting to be signed by the Registrar-General shall, without any further or other proof of such entry where the entry is made in accordance with subsection (4), be received as evidence of the adoption to which the same relates.

37/1974
S. 5 (b).

(6) Any person, upon making application and upon payment of the prescribed fee, shall be entitled to obtain from the Registrar-General a certificate in the form set out as Form B in the Fourth Schedule, of the birth of any person compiled from the Adopted Children Register which certificate shall be evidence of the date of birth of the adopted child to which it relates in all respects as though the same were a certified copy of an entry in the Register of Births, but no such certificate shall include any particulars other than the name, surname, sex and date and place of birth, and such other particulars if any, as may from time to time be prescribed, not being particulars relating to parentage or to adoption :

Fourth
Schedule.

Provided that the Registrar-General may refuse to issue a certified copy or a certificate under this section in any case where there are reasonable grounds to suspect that such certified copy or certificate will be used for an unlawful purpose.

(7) The Registrar-General shall cause an index of the Adopted Children Register to be made and kept in his office, and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register in all respects upon, and subject to the same terms, conditions and regulations as to

payment of fees and otherwise as are applicable under the Registration (Births and Deaths) Act, in respect of searches in indices relating to births and deaths kept in the office of the Registrar-General, and in respect of the supply from such office of certified copies of entries in the Registers of Births, Deaths and Marriages.

(8) The Registrar-General 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 connexion 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 an order of a court of competent jurisdiction, shall the Registrar-General furnish any person with any information contained in or with any copy or extract from any such registers or books.

15/1982
S. 2 (b).

(9) The Registrar-General may, on the application in writing of a person who was adopted prior to the 5th day of March, 1964, amend the adopted Children Register by inserting therein in the appropriate place the surname where known of the applicant prior to his adoption, as recorded in the adoption order.

15/1982
S. 2 (b).

(10) The Registrar-General may, on application to him in writing by or on behalf of a person adopted prior to the 1st day of December, 1983, deem the location of the Court that made the adoption order in respect of that person to be the place of birth and registration district of that person, if the information relating to birth and registration was not available at the time when the adoption order was made.

FIRST SCHEDULE

(Section 8 (3))

Adoption of Children Regulations

1. These Regulations may be cited as the Adoption of Children Regulations.

2. In these Regulations—

“Board” means the Adoption Board constituted under section 3 of the Act;

“case committee” means the committee referred to in section 8 of the Act;

“the Act” means the Children (Adoption of) Act.

3. Every person desirous of adopting a child shall first make application to the Board according to Form A in the First Appendix and submit with such application the certificate of a registered medical practitioner according to Form B in the said Appendix as to the physical and mental health of such person:

Provided that where the adopter is the natural father or mother of the child he or she shall not be required to submit a certificate as aforesaid unless requested by the Board so to do. 2/1964
S. 10 (a).

4.—(1) The Board shall furnish the parent or guardian of the child with a memorandum according to Form C in the First Appendix and shall not proceed further with any negotiations or arrangements for the adoption of the child unless the parent or guardian has signed and delivered to the Board a certificate (which the Board shall retain) according to Form D in the said Appendix to the effect that he has read and understood the memorandum and agrees to the terms of the last paragraph thereof.

(2) Where the Board considers it expedient that the identity of a parent or guardian should be kept confidential, or if the parent or guardian so desires it, the Board may at any time during negotiations relating to the adoption assign a serial number in respect of that parent or guardian for the purposes of the negotiations and any subsequent proceedings in the Court relating to the adoption. 37/1974
S. 6 (b).

5. The Board shall make enquiries and obtain reports on the matters set out in the Second Appendix and generally on all matters appertaining to the welfare of the child, and the report on the health of the child shall be signed by a registered medical practitioner. The case shall be considered by a case committee appointed by the Board for the purpose and consisting of not less than three members of the Board.

6. No child shall be delivered by the Board into the care and possession of an adopter until—

(a) the adopter has been interviewed, and any premises in the Island in which the adopter intends that the child should

CHILDREN (ADOPTION OF)

reside permanently have been inspected by the case committee or by some person on their behalf;

- (b) the case committee have considered the reports required by regulation 5.

2/1964
S. 10 (b).

7. At least once during every month of the probationary period of three months or six months, as the case may be, prescribed by section 6 or section 10 of the Act, or where an interim order has been made under section 12 of the Act, of the period of such order, a representative of the Board shall visit the child and also visit or otherwise make contact with the parents or guardian of the child and shall report upon the case and the result of such visits and contact to the case committee. If the case committee so recommend, the Board shall immediately remove the child from the care and possession of the adopter.

15/1982
S. 3 (a).

8. The parent or guardian of a child who is being placed at the disposition of the Board with a view to the child being adopted shall sign a declaration of consent for medical treatment for the child in the form set out as Form E in the First Appendix.

FIRST APPENDIX

FORM A

Application to Board

I (or We) the undersigned desire to make application to the Adoption Board in respect of a

*Male

or child, approximately aged

Female

or the child named
now residing at

I (or We) hereby undertake that the particulars given below are true to the best of my (our) knowledge and belief.

1. Name(s)
2. Address(es)
3. Country of domicile
4. Date(s) of birth
5. Religion
6. Names and addresses of two responsible persons able to vouch the character of the adopter(s)

*Delete words which do not apply.

N.B.—Where the application is made by one or two spouses, their marriage certificate must be affixed to this form.

FORM B

Medical Examination of the Applicants

(Where a joint application is made, an examination of each applicant is required)

Matters on which information should be obtained:

Name..... Age..... Occupation.....
Address.....

- A. Whether the applicant has suffered at any time from—
 - (1) Any nervous or mental disorder
 - (2) Fits of any kind
 - (3) Tuberculosis
- B. Whether he/she is now in good health
- C. Whether there is any relevant family history of mental or physical disease
- D. Whether there is any detectable abnormality in the
 - (1) Cardio-vascular system (including blood pressure)
 - (2) Respiratory system (including chest X-ray if thought desirable)
 - (3) Genito-urinary system (including urine tests for sugar and albumen)
 - (4) Alimentary system
 - (5) Central nervous system
 - (6) Skin
 - (7) Eyes
 - (8) Ears and hearing

If so give particulars

- E. General opinion of examining doctor in regard to the applicant's
 - (1) Physique
 - (2) Mental and emotional stability
 - (3) Psychological suitability to adopt a child
- F. Whether there is any reason to expect that the applicant's health may deteriorate before the child has reached the age of independence.

Signature..... Date of Examination.....
Qualifications.....

FORM C

Memorandum to be furnished by Board to Parent or Guardian proposing, to place child at disposition of Board

Children (Adoption of) Act

If an adoption order is made in respect of your child, all your rights and duties with regard to the child will be transferred permanently to the adopter. If you have taken out an insurance policy against funeral expenses for the child, the insurers will be able to advise you whether the policy can be transferred to the adopters, as is often the case.

CHILDREN (ADOPTION OF)

It is for the adopters to apply for an adoption order, but unless there is some special reason to the contrary, the Court which deals with the application will not make an order without your consent. The main grounds on which an adoption order can be made without the consent of a child's parents or guardians are that they have deserted the child or cannot be found or are out of their proper senses or otherwise incapable of giving consent or have persistently failed without reasonable cause to discharge their obligations as the child's parents or guardians. You may have to appear before the Court in private to tell them whether you agree to the adoption.

37/1974
S. 6 (c).

FORM D

Certificate of Receipt of Memorandum to be furnished to Board by Parent or Guardian proposing to place Child at disposition of Board
To: The Adoption Board.

I hereby certify that I received from the Adoption Board a memorandum, Form C, headed "Children (Adoption of) Act", from which I have detached this form of acknowledgment: that I have read the memorandum and understand it and agree to the terms thereof.

Signature :

Address :

Before.....

Justice of the Peace

Date

15/1982
S. 3 (b).

FORM E

Consent for medical treatment of child

Having placed my/our child.....

(name of child)

at the disposition of the Adoption Board, I/we hereby authorize the Board to take such steps as it thinks necessary or desirable for the care and supervision of the child including, if the Board thinks the health of the child so warrants, the obtaining of medical, surgical, dental or other examination or treatment for the child.

Signature(s) :

Address :

.....

.....

Before:

Justice of the Peace.

Date.....

SECOND APPENDIX

PART I. Particulars relating to the child

L.N. 272/57

Confidential: On completion forward promptly to Secretary, Adoption Board.

.....

Name.....Date of Birth.....
(Surname) (Christian Names)

Address.....Nationality.....

Weight at Birth.....What Age did Child Walk?.....
(State if premature)

Was Mother's Confinement Normal
or Instrumental?.....What Age did Child Talk?.....

Child was: (A) Entirely Breast Fed.....Has Child any Right
or Interest in
(B) Partially Breast Fed..... Property?.....
(C) Entirely Bottle Fed.....
(Strike out as appropriate) (If yes, give particulars)

Was Child Baptised?..... Child's Life Insurance.....
(State type of Policy and Amount)

Place of Baptism.....Why is Child offered for Adoption
Denomination.....

FAMILY HISTORY

<i>Mother</i>		<i>Father</i>	
Name.....	Name.....	Name.....	Name.....
<i>(Surname) (Christian Names)</i>	<i>(Surname) (Christian Names)</i>	<i>(Surname) (Christian Names)</i>	<i>(Surname) (Christian Names)</i>
Address.....	Address.....	Address.....	Address.....
Age.....	Religion.....	Age.....	Religion.....
Marital Status.....	Marital Status.....	Marital Status.....	Marital Status.....
Husband's Full Name.....	Wife's Full Name.....	Husband's Full Name.....	Wife's Full Name.....
.....
Sex and Age of Other Children.....	Sex and Age of Other Children.....	Sex and Age of Other Children.....	Sex and Age of Other Children.....
.....
.....
.....
.....

CHILDREN (ADOPTION OF)

FAMILY HISTORY, contd.

Mother

Father

Is there any Family History of— Is there any Family History of—
Insanity?..... Insanity?.....
Tuberculosis?..... Tuberculosis?.....
Other Diseases?..... Other Diseases?.....

Does she consent to Adoption?...Does he consent to Adoption?...
(If no, state Reason) (If no, state Reason)

If dead, Date of Death.....If dead, Date of Death.....

Are parents separated?.....Is separation order in force?.....
If so, give particulars as to maintenance of child.....
If illegitimate, does father contribute to child's maintenance?.....
If so, give particulars.....

If child has Guardians, state:

Name.....Address.....
(Surname) (Christian Names)

Name.....Address.....
(Surname) (Christian Names)

How and by Whom were they Appointed?.....

Do they consent to Adoption?.....
(If no, state Reason)

Are any other Persons Liable to contribute to Child's Support?.....

Do they consent to Adoption?.....
(If no, state Reason)

Signature..... Date.....
Adoption Officer

PART II. *Medical Certificate*

(The medical report must be signed by a registered medical practitioner)

1. State of nutrition of the child (good, fair, poor).
2. Are there any evidences of syphilis or other venereal diseases? State laboratory tests applied and their results.
3. Is there any evidence of tuberculosis?
4. Has the child had fits? If so, state nature.
5. Is there, or has there been any affection of the skin?
6. Is there, or has there been any affection of the eyes? Is the sight normal?
7. Has the child had any discharge from the ears, or any serious ear trouble, and can it hear well?
8. Are the nose and throat in healthy condition?
9. Is there any evidence of disease of heart or lungs?
10. Has the child normal control of bowels and bladder for its age?
11. Is the child now suffering from any infectious or contagious disease?
12. Has the child had malaria, typhoid fever, measles, chicken-pox, whooping cough, diphtheria, or mumps?
13. Has the child been vaccinated?
14. Is the child's mental and physical development normal for its age?
15. Has the child any physical deformities?
16. Are behaviour, speech and articulation normal for its age?
17. If the child has been neglected, or improperly fed, do you consider its constitution such that good nursing and proper care would make it suitable for adoption?
18. Give particulars of any condition, not mentioned above, about which you consider an adopter should be informed.

SECOND SCHEDULE (Section 20 (5))
Adoption of Children Rules

1. These Rules may be cited as the Adoption of Children Rules, 1956.
2. In these Rules—
“applicant” means the person or persons making an application for an adoption order under the Act;

CHILDREN (ADOPTION OF)

“Board” means the Adoption Board constituted under section 3 of the Act;

“Court” has the same meaning as in section 2 of the Act;

“the Act” means the Children (Adoption of) Act.

3.—(1) Every application for an adoption order shall be made either on originating Summons to the Supreme Court of Judicature or by Summons to a Resident Magistrate’s Court for the place where either the applicant or the child resides at the date of the application, and shall be intituled in the matter of the child and in the matter of the Act and there shall be presented to the Court a written statement in duplicate according to Form A in the Appendix, accompanied by a statement of particulars according to Form B in the said Appendix and (except where the applicant is the mother or father of the child) written consents according to Form D in the said Appendix.

(2) Except in a case where the applicant has made a previous application to a Court in respect of the same child, or the Court specially requires the attendance of the applicant the attendance in person of the applicant shall not be necessary for the purpose of lodging the aforesaid statement and documents.

(3) The Board shall lodge in the Court on every application for an adoption order the certificate of the parent or guardian of the child referred to in regulation 4 of the Adoption of Children Regulations, and a statement with respect to the identity of the child in the Form C in the Appendix.

(4) If any person proposing to apply to the Court for an adoption order desires that his identity shall be kept confidential, he may, before taking out the appropriate summons apply to the Registrar of the Supreme Court or, as the case may be, the Clerk of the Resident Magistrate’s Court for a serial number to be assigned to him for the purposes of the proposed application and such a number shall be assigned to him accordingly.

(5) Unless it appears from the application, or is otherwise shown to the satisfaction of the Court, that the applicant does not desire that his identity should be kept confidential, the proceedings shall be conducted with a view to securing that he is not seen by or made known to any individual being a respondent (other than the child or spouse of the applicant); and in particular the Court shall direct that the applicant (unless his attendance is dispensed with under rule 7) shall attend and be heard and examined separately and apart from any such respondent.

4. If it appears to the Court that the applicant has made a previous application under the Act in respect of the same child, the Court shall not entertain the application unless satisfied that the previous application was made to a Resident Magistrate’s Court and that there has been a substantial change in the circumstances.

5.—(1) The Court shall appoint some person to be guardian *ad litem* of the child in respect of whom the application is made.

(2) The following persons shall be made respondents, namely, the child in respect of whom the application is made, every person who is a parent or guardian of the child or has the actual custody of the child or is liable to contribute to the support of the child, and where the applicant has a spouse who is not also an applicant, the spouse of the applicant.

(3) The Court shall fix a time for the hearing of the application and shall issue a notice according to Form E in the Appendix addressed to the respondents and shall direct the Board to cause such notice to be served on each of them:

Provided that where the child is in actual custody of any person such notice need not be served on the child, but may require such person to produce the child to the Court, unless the Court is satisfied by a report from the Board that special circumstances exist which render it inexpedient or unnecessary that the child shall personally attend before the Court.

(4) Any notice under these Rules shall be served upon any respondent to whom it is addressed either by delivering a copy to him personally or by leaving a copy with some person for him at his last known or usual place of abode or by sending by registered post to him at his last known or usual place of abode, whether such place of abode is in the Island or elsewhere.

6. All proceedings under the Act shall be made, heard and determined *in camera*.

7.—(1) Subject to the provisions of this rule, an adoption order or an interim order shall not be made except after the personal attendance before the Court of the applicant and the parent or guardian of the child; notwithstanding in the case of the parent or guardian, that written consent has been obtained or that the Court is asked to dispense with consent.

(2) The Court may waive the requirement under paragraph (1) in the case of the parent or guardian of the child, if satisfied that any such person cannot be found or is incapable of giving consent or if for any reason the Court thinks it is right or desirable that this requirement should be waived.

(3) In any case where the Court dispenses with the personal attendance of any person the written consent of that person verified by a declaration purporting to be made before and signed by a Justice of the Peace shall be *prima facie* evidence of such consent.

(4) In the case of a joint application for an adoption order or an interim order, the Court may, if it thinks fit, dispense with the personal attendance of one spouse if his or her application be verified by a declaration purporting to be made before and signed by a Justice of the Peace.

CHILDREN (ADOPTION OF)

8. Subject to the provisions of this rule and of rules 7 (4) and 12 (3) (b), the Court may direct that the applicant or any respondent shall attend and be heard and examined separately and apart from the other parties to the application :

Provided that no such direction shall be given unless—

- (a) the Court is satisfied that the giving of the direction is desirable and will not prejudice the determination of any question involved; and
- (b) the consent of the applicant or respondent to whom it is proposed that the direction shall be given and of all other parties to the application is first obtained.

9. On any adjournment of the hearing, the Court may issue to any respondent not in attendance a notice of the time and place to which the hearing is adjourned and may direct the Board to cause it to be served.

10. If owing to special circumstances an application appears to a Resident Magistrate's Court to be more fit to be dealt with by the Supreme Court, such Court may, on that ground expressly, refuse to make an order.

11.—(1) An adoption order or an interim order shall be drawn up in Form F or Form G in the Appendix, as the case may require.

(2) No copy or duplicate of such order shall be given to or served upon any person other than the applicant and the Registrar of the Supreme Court or Clerk of a Resident Magistrate's Court, as the case may be, except by special direction of the Court.

(3) An interim order shall include such provision for the maintenance and education of the child and such terms as regards the exercise of supervision by the Board or otherwise as the Court may think fit.

12.—(1) Where the determination of an application has been postponed and an interim order has been made, the applicant shall at least two months before the expiration of the order apply to the Court which made the interim order to proceed with the determination of the application and it shall thereupon be lawful for the Court to fix a time for the further hearing of the application and to issue a notice in the Form H in the Appendix, addressed to the respondents and to direct the Board to cause such notice to be served on each of them :

Provided that where the child is in the actual custody of the applicant the notice need not be served on the child.

(2) Subject to the provisions of this rule, where the applicant so applies, an adoption order shall not be made unless the applicant, the child and a representative of the Board have attended the further hearing.

- (3) (a) The Court may waive the requirement under paragraph (2) in the case of the child if satisfied by a report from the Board that special circumstances exist which render it inexpedient or unnecessary that the child shall personally attend before the Court;
- (b) in the case of a joint application, the Court may, if it thinks fit, dispense with the personal attendance of one spouse, if his or her application be verified by a declaration purporting to be made before and signed by a Justice of the Peace.

13. On the making of an interim order or on the determination of the application the Court may make such an order as to costs as it may think just and in particular may order the applicant to pay the out-of-pocket expenses incurred by the guardian *ad litem* or incurred in attending the Court by any other of the respondents, or such part thereof as the Court thinks proper, and such costs or expenses shall be recoverable summarily as a civil debt.

14.—(1) Upon the making of an adoption order, the Registrar of the Supreme Court or the Clerk of the Resident Magistrate's Court, as the case may be, shall within seven days from the date thereof send a duplicate or a certified copy of the order to the Registrar-General and shall also, subject to the payment by the applicant of any fee required by law, deliver or send a duplicate or certified copy to the applicant.

(2) The duplicate or certified copy, if sent by post, shall be sent by registered post.

15. Subject to the foregoing rules, the Rules of the Supreme Court of Judicature shall apply in respect of all proceedings under the Act in the Supreme Court and the Judicature (Resident Magistrates) Act (subject to such adaptation, to such extent, as required for the purposes of subsection (4) of section 4 of the Judicature (Family Court) Act) shall apply in respect of all proceedings under the Act in a Resident Magistrate's Court as if the application were a complaint and the respondents were defendants and the notice under rule 5 were a summons.

41/1975
2nd Sch.

Appeals

16. The Board shall if so required by any person entitled under the Act to appeal (hereinafter called "the appellant") deliver to him and file in their proceedings a statement of the reasons for their decision.

17. The appellant who desires to appeal against a decision of the Board shall within fourteen days after the receipt by him of the notification of the Board's decision file with the Registrar at the Registry of the Supreme Court a notice in writing to that effect in the Form I in the Appendix (hereinafter called a "notice of appeal") stating therein—

- (a) the grounds of his appeal;

- (b) his address for service;
- (c) the names and addresses of the persons intended to be served.

18. In every notice of appeal the persons referred to in rule 5 (2), except the appellant shall be named as respondents, each of whom shall be served with a copy of the said notice by the appellant within fourteen days after the receipt by him of the notification of the Board's decision.

19. On the filing of a notice of appeal, the Registrar shall—

- (a) enter the appeal in the Books of the Court and fix a day for the hearing of the appeal by a Judge in Chambers; and
- (b) serve on the appellant and on each of the respondents a notice in the Form J in the Appendix by delivering it or posting the same to them at their respective addresses.

20. Forthwith upon the serving of the notice of appeal, or as soon as may be, thereafter, the Registrar shall request the Board to furnish him immediately—

- (a) the reasons for the Board's decision;
- (b) all the relevant reports and correspondence, and answers to the enquiries on the matters set out in the Second Appendix to the Regulations mentioned in the First Schedule to the Act or copies thereof;
- (c) any other information on which the Board based its decision, and the appellant, should he desire to do so, may obtain copies of the same from the Registrar on payment of the fees prescribed by the Rules of the Supreme Court for office copies of documents in the Registry.

21. Every appeal shall be by way of rehearing, and the Rules of the Supreme Court shall apply thereto unless it is otherwise provided in these Rules.

APPENDIX TO SECOND SCHEDULE

FORM A

Rule 3 (1)

*Application for an Adoption Order in respect of a child named
known to the Adoption Board as Case No.*

To the Court.

I (or We), the undersigned
resident at
hereby state:

1. I am (or We are) desirous of being authorized under the provisions of the Children (Adoption of) Act, to adopt a child of the sex, resident at in the Island hereinafter called "the child".

2. The child was on the date of coming into force of the said Act in my (or our) custody and was being brought up, maintained and educated by me (or us) as my (or our) child under a de facto adoption and had been in my (our) custody and had been so maintained and educated for a period of not less than 2 years before that date, to wit, from and after the day of 19 .

Delete except in the case of de facto adoption.

3. The child has been in my (our) care and has been brought up, maintained and educated by me (us) since

4. We are married to each other; (or I am unmarried) (or I am married to whose written consent to the making of the order is appended hereto).

5. I am (or We are) domiciled in the Island.

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

7. I (or We) have made no previous application under the said Act in respect of the child to any Court (other than the application made to the Court at on the day of 19 , which was dealt with as follows, viz:)

8. The particulars furnished in this application and in the attached form are true and complete and I am a (or we are) fit and proper person(s) to maintain and bring up the child suitably.

In witness whereof I (or we) have signed this statement on the day of , 19 . Signature of Applicant(s) (giving full Christian names).

FORM B

Rule 3 (1)

Particulars to be furnished with Application for Adoption Order

- Name in full
Address
Occupation
Date of birth Age last birthday
Relationship (if any) to the child

CHILDREN (ADOPTION OF)

These particulars are to be furnished by both male and female applicant, if the application is being made by two spouses.

FORM C

Rule 3 (3)

Statement to be lodged in Court by Board on every Application for an Adoption Order

Statement by Adoption Board of identity of child now named known to the Adoption Board as

Case No.

To the

Court:

1. I, _____, being a member of the Adoption Board of Jamaica hereby certify that the child abovenamed Adoption Board Case No. _____, is the child formerly known as

2. The father of the child is _____, now resident at _____, whose written consent to the making of an adoption order is appended hereto; and the mother of the child is _____, now resident at _____, whose written consent to the making of the adoption order is appended hereto.

3. The child was born on the _____ day of _____ 19____, and is identical with the child to whom the attached certified copy of an entry in the Register of Births relates.

4. The child has never been married.

*5. The guardian(s) of the child is (or are) _____ of _____, whose written consent(s) to the making of an adoption order is (or are) appended hereto.

*6. The child is in the actual custody of _____ of _____, whose written consent to the making of an adoption order is appended hereto.

*7. _____, of _____, is (or are) liable to contribute to the support of the child and his (or their) written consent(s) to the making of an adoption order is (or are) appended hereto.

Signature of Member of Adoption Board.

Dated

*Delete whichever is not applicable.

FORM D

Rule 3 (1)

Consent of Parent or Guardian of Child

Consent to an Adoption Order in respect of a child formerly named and known to the Adoption Board as Case No. _____

An application to _____ Court being made for an order authorizing the adoption, under the provisions of the Children (Adoption of) Act, of the said child.

I (We) the undersigned _____, of _____ being—

- (a) the father of the child
- (b) the mother of the child
- (c) a guardian of the child
- (d) a person (acting on behalf of a body) having the actual custody of the child
- (e) a person (acting on behalf of a body) being liable to contribute to the support of the child
- (f) the spouse of the applicant
- (g) serial number

Delete all but one of these descriptions, except in the case of father and mother consenting jointly

hereby state that I (we) understand the nature and effect of the Adoption Order for which application is made (and that in particular I (we) understand that the effect of the order will be permanently to deprive me (us) of my (our) parental rights) and I (we) hereby consent to the making of an adoption order in favour of the applicant [on condition that the religious persuasion in which the child is brought up is.....]

In witness whereof I (we) have signed this consent on the _____ day of _____, 19 ____ .
(Signature)

Signed in the presence of: _____ (Signature)
_____ (Address)
_____ (Description)
_____ (Signature)
_____ (Address)
_____ (Description)

FORM E

Rule 5 (3)

Notice of an application for an Adoption Order in respect of a child named (1) _____ (formerly (2) _____), known to the Adoption Board as Case No. _____). See Note (1). See Note (2).

In the _____ Court.
To _____ of _____
and _____ of _____, etc.

TAKE NOTICE:

[The inclusion of this page is authorized by L.N. 55/1984]

CHILDREN (ADOPTION OF)

See Note (3). (1) That an application has been made by (3) for an order under the Children (Adoption of) Act, authorizing him to adopt the said child, being a child of the sex, aged years, resident at

(2) That the said application will be heard before the Court sitting at on the day of , 19 , at the hour of in the noon and that you are severally required to attend before the Court (and in the case of to produce the said child before the Court).

Dated the day of 19 .

Notes—

- (1) Insert name or names by which the child is to be known.
(2) Delete where there is no change of name. Where there is change of name insert former names, including surname.
(3) Where the application is made by two spouses jointly the form should be modified; and where under a serial number, the serial number should be inserted.

FORM F

Rule 11 (1)

See Note (1). Adoption Order in respect of a child named

See Note (2) (formerly). Before the Court sitting at , the day of , 19 .

Application has been made by (hereinafter called the male applicant), a person not under the age of 25 years, by occupation , resident at , in the Island and domiciled in the Island [and by his wife (hereinafter called the female applicant) being the mother of the child or a person not under the age of 25 years] [and the applicant one of the applicants being the mother/father of the child] [by serial number.....] that he (or she) is (or they are) desirous of being

2/1964 S. 11 (b).

See Note (3). to adopt (formerly

See Note (4).) a child of the sex, aged years,

resident at , in Jamaica, who has never been married, the child of (See Note (7)) (and of his wife) (herein called the child);

37/1974 S. 7 (a).

Delete the words which are not applicable. 1/1979 1st Sch.

And the male (and female) applicant(s) being (respectively) not less than 25 years old;

(And the male (and female) applicant(s) has (have) attained the age of 18 years and is (are) a relative(s) of the child);

CHILDREN (ADOPTION OF)

Notes—

- (1) Insert name or names, including surname, by which the child is to be known.
- (2) Delete where there is no change of name. Where there is change of name, insert former name including surname.
- (3) Insert Christian name or names by which the child is to be known. The surname should not be stated here.
- 2/1964
S. 11 (d). (4) Delete where there is no change of name. Where there is change of name insert former names not including surname.
- (5) Where no entry relating to the child is found in the Register of Births this paragraph should be deleted.
- (6) An adoption order, or copy sent to the Registrar-General is required to be drawn up on paper of foolscap folio size, thirteen inches by eight inches, and to have a margin, to be left blank, not less than one inch wide on the left side of the face of the order, and a similar margin in the right side of the reverse if any.
- 37/1974
S. 7 (b). (7) Where a serial number has been assigned to a parent pursuant to paragraph (2) of regulation 4, such serial number should be inserted instead of the name of the parent.

FORM G

Rule 11 (1)

See Note (1). *Interim Order in respect of a child named*

See Note (2). (formerly)

Before the Court sitting at
the day of , 19 .

Delete words which are not applicable.

Application has been made by (hereinafter called the male applicant) a person not under the age of 25 years, by occupation , resident at , in the Island and domiciled in the Island [and by his wife (hereinafter called the female applicant) being the mother of the child or a person not under the age of 25 years] [and the applicant one of the applicants being the mother/father of the child] [by serial number.....] that he (or she) is (or they) are desirous of being authorized under the Children (Adoption of) Act, to adopt

2/1964
S. 11 (b).
L.N. 252/65.
See Note (3).
See Note (4).

(formerly) a child of the sex, aged years, resident at , in Jamaica, who has never been married, the child of (See Note (5)) (and of , his wife) (herein

37/1974
S. 7 (c).

called the child): And the male (and female) applicant(s) being not less than 25 years old;

(And the male (and female) applicant(s) has (have) attained the age of 18 years and is (are) a relative(s) of the child);

(And the male applicant being the putative father of the child);

(And the female applicant being the mother of the child);

And all the consents required by the Act having been obtained or dispensed with;

It is adjudged that the statements made in the application are true;

And the determination of the application is postponed and it is ordered that the custody of the child be given to the applicant(s) for a period not exceeding two years, viz., until the day of _____, 19____, by way of a probationary period upon the following terms, viz., _____, and that the applicant(s) shall at least two months before that date apply for a determination of the application; (And as regards costs it is ordered that _____).

Delete the words which are not applicable. 1/1979 1st Sch.

Notes—

- (1) Insert the name or names, including surname, by which the child is to be known.
- (2) Delete where there is no change of name. Where there is change of name, insert former name including surname.
- (3) Insert Christian name or names by which the child is to be known. The surname should not be stated here.
- (4) Delete where there is no change of name. Where there is change of name insert former names not including surname.
- (5) Where a serial number has been assigned to a parent pursuant to paragraph (2) of regulation 4, such serial number should be inserted instead of the name of the parent.

L.N. 252/1965.

37/1974 S. 7 (d).

FORM H

Rule 12 (1)

Notice of Further Hearing of an application for an Adoption Order in respect of a child named (1)

See Note (1) (formerly See Note (2))

(2) _____).
 Before the _____ Court sitting at _____
 the _____ day of _____, 19____.
 To _____ of _____ and _____
 of _____, etc.

CHILDREN (ADOPTION OF)

TAKE NOTICE:

See Note (3). (a) That an application was made by (3) for an order under the Children (Adoption of) Act, authorizing him to adopt the said child, being a child of the sex, then aged years.

(b) That the determination of the said application was postponed and an interim order was made by the Court sitting at on the day of , 19 .

(c) That the said application will be further heard before Court sitting at , 19 , on the day of , 19 , and that it is open to you to attend before the Court.

Dated this day of , 19 .

Notes—

- (1) Insert name or names, including surname by which the child is to be known.
- (2) Delete where there is no change of name. Where there is change of name, insert former name, including surname.
- (3) Where the application was made by two spouses jointly the form should be modified.

Notice of Appeal

FORM I

Rule 17

In the Matter of the Appeal of (an Adopter or Parent or Guardian as the case may be) against a Decision of the Adoption Board and

In the Matter of the Children (Adoption of) Act

I, being aggrieved at the decision of the Board dated the day of , 19 , that the adoption of a male/female child by would not be in the best interest of the child, do hereby appeal against such decision on the following grounds—

(Here set out reasons for appeal)

I request you to enter my appeal for hearing.

The name and address of the respondent are—

My address for service is:

Dated this day of , 19 .

(Signed)

Appellant

To:

(Name and address of Respondent)

FORM J

Rule 19 (b)

In the Matter of the Appeal of (an Adopter or Parent or Guardian as the case may be) against a Decision of the Adoption Board and

In the Matter of the Children (Adoption of) Act

TAKE NOTICE that the appeal in this matter from the decision of the Adoption Board dated the _____ day of _____, 19____, will be heard by a Judge in Chambers at the Supreme Court of Judicature on _____ day of _____, 19____, at the hour of _____ in the forenoon, and that if you do not attend at the time and place above-mentioned, such order will be made as the Judge thinks fit.

Dated this _____ day of _____, 19____.
Registrar

THIRD SCHEDULE (Section 24)

The Adoption of Children (Transfer Abroad) Rules

1. These Rules may be cited as the Adoption of Children (Transfer Abroad) Rules.

2. An application for a licence under section 24 of the Act authorizing the care and possession of a child, being a citizen of Jamaica, for whose adoption arrangements have been made to be transferred to a person resident outside the Island may be made by a parent or guardian of the child or by the Board. ^{2/1964} S. 12 (a).

3. Notice of the application shall be given in the form numbered 1 in the Appendix to the Resident Magistrate of the parish in which the application is to be heard.

4. The Resident Magistrate shall cause a copy of the notice to be sent to a Jamaican or British consular officer or to some other person abroad who appears to the Resident Magistrate to be trustworthy, and shall request the officer or person to report whether the person to whom the care and possession of the child is proposed to be transferred is a suitable person to be entrusted therewith. ^{L.N.} 31/1963.

5. Upon receipt of a report from the Jamaican or British consular officer or other person referred to in rule 4, the Resident Magistrate shall fix a time for the hearing of the application and shall send to the applicant a notice in the form numbered 2 in the Appendix. ^{L.N.} 31/1963.

6. A copy of the notices referred to in rules 3 and 5 shall be served by the applicant upon the child, the Board and upon every person who is a parent or guardian of the child, or who has the actual custody of the child, or who is liable to contribute to the support of the child:

Provided that the Resident Magistrate may dispense with the service required by this rule of a copy of the notices—

CHILDREN (ADOPTION OF)

- (a) upon any person other than the child, if he is satisfied that that person cannot be found; and
- (b) upon the child, if he thinks fit having regard to the age and understanding of the child.

7. The Resident Magistrate may issue a notice in the form numbered 3 in the Appendix requiring any person who has the actual custody of the child to produce the child at the hearing of the application and the applicant (unless he himself has the actual custody of the child) shall serve the notice upon that person.

8.—(1) The service of any document under rule 6 or 7 may be effected by delivering it to the person to be served or by sending it by registered post to him at his last known or usual place of abode.

(2) The service of any such document as aforesaid may be proved by the production of a declaration in the form numbered 4 in the Appendix or in a form to the like effect purporting to be made before a Justice of the Peace.

9.—(1) The persons upon whom a copy of the notices referred to in rule 6 is required by that rule to be served may attend at the hearing of the application and shall be entitled to be heard.

(2) The consent of a person to the making of the application, if given in writing, may be proved by the production of a declaration in the form numbered 5 in the Appendix or in a form to the like effect purporting to be made and signed by that person before a Justice of the Peace.

10. The Resident Magistrate hearing the application may require any person attending for the purpose of making or opposing the application or giving evidence in the matter to be sworn.

11. Any licence granted under section 24 of the Act shall be in the form numbered 6 in the Appendix.

APPENDIX

1.

*Form of notice of an application for a licence (Rule 3)
under section 24 of the Children (Adoption of) Act*

TO THE RESIDENT MAGISTRATE OF THE PARISH OF

I hereby give notice that I intend to apply for a licence under section 24 of the Children (Adoption of) Act, in respect of a male (female) child named

aged _____ years, born on the _____ day of _____, 19 ____.

The child is a citizen of Jamaica and is the subject of arrangements for his (her) adoption as follows (*here set out the arrangements*). 2/1964 S. 12 (b) (i).

*The father of the child is _____ of _____ subject, aged _____ years. *If the father or mother is dead the fact should be stated.

*The mother of the child is _____ of _____ subject, aged _____ years.

**The guardian of the child is _____ of _____ subject, aged _____ years. **Strike out this paragraph if it does not apply.

The child is at present in the actual custody of _____ of _____

† The following persons are liable to contribute to the support of the child. †If no persons are liable write "none".

- 1. _____ of _____
2. _____ of _____

The person to whom the care and possession of the child is proposed to be transferred is _____, a citizen of a _____ scheduled country as defined in section 23 of the Act. resident at _____ 2/1964 S. 12 (b) (i).

‡ The following financial arrangements have been made (or are contemplated) in consideration of the transfer of the care and possession of the child (*here set out the arrangements*). ‡Give full particulars. If there are no arrangements, write "none".

My full name, address and nationality are— and I am making this application as§

Signature of Applicant.....
Date.....

2.

Form of Notice of hearing (Rule 5)

To the applicant for a licence under section 24 of the Children (Adoption of) Act (to the child to whom the application relates); and to any person who is a parent or guardian of the child, or who has the actual custody of the child, or who is liable to contribute to the support of the child and to the Board:

Take notice that an application by _____ for a licence under section 24 of the Children (Adoption of) Act, authorizing the care and possession of _____

[The inclusion of this page is authorized by L.N. 55/1984]

CHILDREN (ADOPTION OF)

2/1964
S. 12 (b) (ii).

for whose adoption arrangements have been made to be transferred to a citizen of a scheduled country as defined in section 23 of the Act, resident outside the Island at , will be heard at Court on day, the day of 19 , at the hour of in the fore(after)noon, and further take notice that you may attend the hearing of the said application, and may, if you wish, either support or oppose the granting of a licence.

Dated the day of , 19 .
Signature of Resident Magistrate.....

3.

Form of Notice requiring production of child at the hearing of an application (Rule 7)

To the person having the actual custody of the child in respect of whom an application for a licence under section 24 of the Children (Adoption of) Act, is to be made:

Take notice that you are required to produce a child in your custody, at the hearing at Court on day, the day of 19 , at the hour of in the fore(after)noon in respect of an application by for a licence under section 24 of the Children (Adoption of) Act, authorizing the care and possession of the said child for whose adoption arrangements have been made to be transferred to a citizen of a scheduled country as defined in section 23 of the Act resident outside the Island at .

2/1964
S. 12 (b) (iii).

Dated the day of 19 .
Signature of Resident Magistrate.....

4.

Form of Declaration of Service (Rule 8 (2))

I, of hereby declare that I did on the day of 19 , serve of

with a copy of the notice of application for a licence under section 24 of the Children (Adoption of) Act, in respect of the child named _____, and of the notice of hearing of the said application at _____ Court on the day of _____ 19 _____, at the hour of _____ in the fore(after)noon (*and a notice requiring the production of the said child at the said hearing) by—

*Strike out these words if they do not apply.

- (i) delivering the said document(s) to personally,
- (ii) sending the said document(s) by registered post to _____ at _____, being his (her) last known or usual place of abode.

Declared before me the _____ day of _____ 19 _____.

Justice of the Peace.

5.

Form of consent to the making of an application (Rule 9)

I, _____ of _____ being ~~**the father, mother, guardian, person having the actual custody, a person liable to contribute to the support,~~ of the child named _____ with respect to whom the application is to be made at _____ Court by _____ on the _____ day of _____, 19 _____, for the grant of a licence under section 24 of the Children (Adoption of) Act, authorizing the care and possession of the said child for whose adoption arrangements have been made to be transferred to _____ a citizen of a scheduled country as defined in section 23 of the Act, resident outside the Island at _____ do hereby declare that I consent to the making of the said application.

**Strike out the words which do not apply.

2/1964 S. 12 (b) (iv).

In witness whereof I have signed this consent on the _____ day of _____, 19 _____.

Signature.....

Before.....

Justice of the Peace

CHILDREN (ADOPTION OF)

6.

Form of Licence

(Rule 11)

2/1964
S. 12 (b) (v).

WHEREAS application has been made this _____ day of _____ 19 _____, by _____ of _____, for a licence under section 24 of the Children (Adoption of) Act, to authorize the care and possession of _____ a child aged _____ years, born as far as can be ascertained on the _____ day of _____, 19 _____, to be transferred to _____ a citizen of _____ a scheduled country as defined in section 23 of the Act resident outside Jamaica, that is to say, at _____ :

AND WHEREAS I, the undersigned, have heard the said application and am satisfied that all the consents required by the said section have been given or dispensed with, and am further satisfied by the report of _____ that the aforesaid _____ is a suitable person to be entrusted with the care and possession of the said child, and that the transfer is likely to be for the welfare of the said child :

AND WHEREAS I am further satisfied that the aforesaid application is made in connection with arrangements which have been made for the adoption of the said child by _____ of _____ :

NOW, THEREFORE I, the undersigned, do hereby grant, subject to the conditions and restrictions set out in the Schedule hereto, this licence authorizing the care and possession of the said _____ to be transferred to the said _____, and I do hereby authorize the making and receipt of payments as follows—
Resident Magistrate of the parish
of _____

SCHEDULE

The conditions and restrictions referred to above are—

**FOURTH SCHEDULE
FORM A**

(Section 25(2))
37/1974
S. 8 (a).

(1) No. of Entry	(2) Date of Entry	(3) Name of Adopted Child. (Enter name as stated in Adoption Order)	(4) Sex of Adopted Child. (Enter sex as stated in Adoption Order)	(5) Name and Surname, Address and Occupation of Adopter or Adopters. (Enter name, address and occupation as stated in Adoption Order)	(6) Date of Birth of Child and country of birth	(7) Date of Adoption Order and descrip- tion of Court by which made. (Entry to be made as appearing in the Adoption Order)	(8) Signature of Officer deputed by Registrar- General to attest the Entry

[The inclusion of this page is authorized by L.N. 90/1993]

CHILDREN (ADOPTION OF)

CHILDREN (ADOPTION OF)

37/1974
S. 8 (b).

FORM B (Section 25(6))
CERTIFICATE OF BIRTH

Registration No.....
Registration district.....
Name of child.....
Surname of child.....Sex.....
Date of birth.....
Place of birth.....

It is hereby certified that the above particulars are truly copied from the Entry No..... and made on.....in the Register Book.....

Given at the General Register Office, Spanish Town, Jamaica, under the seal of the said office this.....day of....., 199.....

Registrar-General

2/1964
S. 13.

FIFTH SCHEDULE (Section 23)

- Any Commonwealth country.
- The United States of America.
- Sweden.
- Denmark.

L.N.
159/1976.

L.N.
42C/1991

[The inclusion of this page is authorized by L.N. 90/1993]