



Jersey

ADOPTION (AMENDMENT No. 5) RULES 2015

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ADOPTION (AMENDMENT No. 5) RULES 2015

*Made**22nd October 2015**Coming into force**29th October 2015*

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 18 of the Adoption (Jersey) Law 1961¹, has made the following Rules –

1 Interpretation and preliminary

- (1) In these Rules “principal Rules” means the Adoption Rules 1962².
- (2) In the heading above Rule 2 of the principal Rules (“**Commencement of proceedings**”) for the numerals “**2-6**” there shall be substituted the numerals “**2-5**”.

2 Rules 4 and 5 amended

In –

- (a) Rule 4; and
- (b) Rule 5(1),

of the principal Rules, for the word “infant” wherever it appears, there shall be substituted the word “child”.

3 Rule 6 substituted

For Rule 6 of the principal Rules there shall be substituted the following Rule –

“6 Agreements and consents

- (1) This Rule applies where –
 - (a) the agreement of a child aged 14 or over is required under Article 3A of the Law to his or her adoption;
 - (b) the agreement of a spouse or civil partner is required under Article 10A of the Law to the making of an order authorizing the adoption of a child;
 - (c) the consent of a parent or guardian requires to be signified to the making of an adoption order for the purposes of Article 14 of the Law.

- (2) Any document signifying or evidencing the agreement of the child for the purposes of Article 3A of the Law shall be in Form 5, and shall be filed with the application.
- (3) Any document signifying or evidencing the agreement of a spouse or civil partner for the purposes of Article 10A of the Law shall be in Form 5A, and shall be filed with the application.
- (4) Any document signifying the consent of a parent or guardian to the making of an adoption order for the purposes of Article 14 of the Law shall be in Form 6 and, if executed before the commencement of the proceedings, shall be filed with the application.
- (5) The document referred to in paragraph (4) is sufficiently attested for the purposes of Article 14(1) of the Law if it is attested by one witness being –
 - (a) in the case of a document executed in Jersey:
a Jurat of the Royal Court; an advocate or solicitor of the Royal Court; a notary public; or an officer of an administration for which the Minister is assigned responsibility;
 - (b) in any other case:
any person for the time being authorized by law in the place where the document is executed to administer an oath for any judicial or other legal purpose; a British consular officer; a notary public; or, if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.”.

4 Rule 6A inserted

After Rule 6 of the principal Rules there shall be inserted the following Rule –

“6A Dispensing with agreement of spouse or civil partner

- (1) This Rule applies where the applicant wishes to ask the Court to dispense with the agreement of his or her spouse or civil partner under Article 10A of the Law.
- (2) The applicant must –
 - (a) give notice of the request in the application form or at any later stage by lodging with the Judicial Greffe a written statement setting out the reasons for the request; and
 - (b) lodge a statement of facts setting out a summary of the history of the case and any other facts to satisfy the Court that –
 - (i) the spouse or civil partner cannot be found;
 - (ii) the spouse or civil partner is incapable of giving agreement;
 - (iii) the spouse or civil partner is unreasonably withholding agreement; or

- (iv) the welfare of the child, as the paramount consideration, justifies the making of the order without the agreement of the spouse or civil partner.
- (3) If a serial number has been assigned to the applicant under Rule 3, the statement of facts supplied under paragraph (2)(b) must be framed so that it does not disclose the identity of the applicant.
- (4) On receipt of the notice of the request the Judicial Greffier shall –
 - (a) inform the spouse or civil partner of the request unless the spouse or civil partner cannot be found; and
 - (b) send a copy of the statement of facts lodged in accordance with paragraph (2)(b) to –
 - (i) the spouse or civil partner unless the spouse or civil partner cannot be found;
 - (ii) the Fostering and Adoption Service.”.

5 Rules 7, 8, 11, 13, 17 and 19 amended

In –

- (a) Rule 7;
- (b) Rule 8;
- (c) Rule 11(1);
- (d) Rule 13;
- (e) Rule 17(1) and (2); and
- (f) Rule 19(1) and (2),

of the principal Rules, for the word “infant” (and “infant’s” in Rule 17(1)(a)) wherever it appears, there shall be substituted the word “child” (and “child’s” in Rule 17(1)(a)).

6 Rule 28A inserted

After Rule 28 of the principal Rules there shall be inserted the following Rule –

“28A Disclosing information to an adopted person

- (1) This Rule applies where an application to the Court is made under Article 32B of the Law for copies of documents.
- (2) The application may be made for copies of the following documents –
 - (a) the application form for an adoption order (but not the documents attached to that form);
 - (b) the adoption order, a provisional adoption order, an interim order, the freeing order and any other orders relating to the adoption proceedings;

- (c) orders containing any provision for contact with the child after the adoption order was made;
 - (d) any transcript or written reasons of the Court's decision with regard to the adoption in question; and
 - (e) a report made to the Court by the Fostering and Adoption Service or the guardian *ad litem*.
- (3) The application shall be made by filing in the Judicial Greffe an application in Form 11.
- (4) The application must –
- (a) have attached to it a certified copy of the entry in the Adopted Children Register relating to the applicant; and
 - (b) be accompanied by evidence of the applicant's identity showing a photograph and signature, such as a certified copy of the applicant's passport or driving licence.
- (5) Before a copy of any document or order referred to in paragraph (2) is given to the applicant, the Judicial Greffier will, in accordance with Article 32B(3) of the Law, redact the restricted information prescribed in paragraph (6).
- (6) The restricted information prescribed is information which would be restricted information under Article 32A of the Law if the Adoption Service gave the information and not the Court.”.

7 Schedule 1 amended

In Schedule 1 to the principal Rules –

- (a) Form 1 shall be amended as set out in Schedule 1 (to these Rules);
- (b) in Forms 2 and 4 for the word “infant” wherever it appears, there shall be substituted the word “child”;
- (c) after Form 4 there shall be inserted Form 5 and Form 5A set out in the Schedule 2 (to these Rules);
- (d)
 - (i) the existing Form 5 shall be renumbered as Form 6, and
 - (ii) for the words “infant” and “infant’s” wherever they appear in the said Form, there shall be substituted the words “child” and “child’s” respectively;
- (e) in Forms 7, 8, 9 and 10 for the word “infant” wherever it appears (and the word “infant’s” wherever it appears in Forms 8 and 9), there shall be substituted the word “child” (and the word “child’s” in Forms 8 and 9);
- (f) after Form 10 there shall be inserted Form 11 set out in the Schedule 3 (to these Rules).

8 Schedule 2 amended

In Schedule 2 to the principal Rules for the word “infant” wherever it appears, there shall be substituted the word “child”.

9 Citation and commencement

These Rules may be cited as the Adoption (Amendment No. 5) Rules 2015 and shall come into force on the seventh day after they are made.

P. MATTHEWS

Judicial Greffier

SCHEDULE 1

(Rule 7(a))

AMENDMENTS TO FORM 11. **In Part 1 About You:**

- (a) in item k), for –

“Status

If you are applying to adopt **as a couple**, please go straight to **Part 2 About the Child**. Paragraphs (l) to (r) do not apply to you.”

substitute –

“Status

If you are applying to adopt **as a couple**, please confirm which of the following applies to you –

- We are married
- We are in a civil partnership
- We are not married/in a civil partnership (**See Note 6B**)

If you are applying to adopt **as a couple**, please go straight to **Part 2 About the Child**. Paragraphs (l) to (r) do not apply to you.”;

- (b) insert the following as
- Note 6B**
-

“If you are adopting as a couple but are not married or in a civil partnership together it will be necessary, in considering the application for adoption, for the Court to be satisfied that you are living as a couple in an enduring family relationship. That will be a question of fact in each case.”;

- (c) for item
- q*
-) substitute –

“q) I am married/I have a civil partner, and my husband/wife/civil partner has agreed to the making of the adoption order (**See Note 10**)”;

- (d) substitute the following as
- Note 10**
-

“Tick this box to signify that the agreement of your husband/wife/civil partner to the making of the adoption order has been obtained. Please attach a duly completed Form No. 5A (Agreement of spouse or civil partner to an adoption order) to the application form.”;

- (e) after item
- q*
-) insert –

“qq) I am married/I have a civil partner, and I can satisfy the Court that the agreement of my husband/wife/civil partner should be dispensed with because (**See Note 10A**) –

my husband/wife/civil partner cannot be found

or

my husband/wife/civil partner is incapable of giving agreement

or

my husband/wife/civil partner is unreasonably withholding agreement

or

the welfare of the child justifies the making of the adoption order without the agreement of my husband/wife/civil partner.”;

(f) insert the following as **Note 10A** –

“If you are applying to adopt alone and you are married or you have a civil partner, you will need to satisfy the Court that –

- your husband/wife or civil partner cannot be found, or
- your husband/wife or civil partner is incapable of giving agreement, or
- your husband/wife or civil partner is unreasonably withholding agreement, or
- the welfare of the child justifies the making of the order without the agreement of your husband/wife or civil partner.

You must show on the application form which of these four grounds applies in your case by ticking the appropriate box.

You should attach your marriage certificate (or other evidence of marriage) or certificate of civil partnership (or other evidence of civil partnership) to your application, together with any other documentary evidence on which you propose to rely, such as a decree of judicial separation, or medical evidence of physical incapability or a lack of capacity. You should also supply the name and address (if known) of your husband/wife or civil partner.”.

2. In **Part 2 About the Child** –

(a) after item l) (at the end of Part 2) insert –

“Agreement

m) the child has agreed to his or her adoption and Form No. 5, duly completed, is attached to this form. (See **Note 17A**)”

(b) insert the following as **Note 17A** –

“Tick this box to signify that the agreement of the child subject to the application for an adoption order has been obtained. Please attach a duly completed Form No. 5 (Agreement of child subject to an adoption order) to the application form.”.

SCHEDULE 2

(Rule 7(c))

“FORM No. 5

Rule 6(2)

AGREEMENT OF CHILD SUBJECT TO AN ADOPTION ORDER

Whereas an application is to be/has been made by
...../and..... [or under
the serial number] ⁽¹⁾ (the “**applicant**”/the “**applicants**”) for an
adoption order in respect of ⁽²⁾, a child.

I, ⁽³⁾, of ⁽⁴⁾,
confirm that I was born on ⁽⁵⁾ and that, with full
understanding of what is involved in, and the effect of, the order, freely agree to my
adoption.

1. I understand that the effect of an adoption order will be to deprive my birth parents/guardian permanently of any rights as parents/guardian and to transfer them to the applicant(s).
2. I further understand that, when the application for an adoption order is heard, this document will be used as evidence of my agreement to the making of the order.

(Signature of child)

(Date)

Notes:

1. Insert either the name of the applicant(s) or the serial number assigned to the applicant(s) for the purposes of the application.
2. Insert the name and surname of the child.
3. Insert the name and surname of the child.
4. Insert the address of the child.
5. Insert date of birth of the child.”.

“FORM No. 5A

Rule 6(3)

AGREEMENT OF SPOUSE OR CIVIL PARTNER TO AN ADOPTION ORDER

Whereas an application is to be/has been made by
..... [or under the serial number]⁽¹⁾
(the **“application”**) for an adoption order in respect of
.....⁽²⁾, a child;

I,.....⁽³⁾, of⁽⁴⁾,
confirm that, with full understanding of what is involved in, and the effect of, the
order, freely agree to the making of an adoption order in pursuance of the application.

I further understand that, when the application for an adoption order is heard, this
document may be used as evidence of my agreement to the making of the order unless
I inform the Court that I no longer agree.

.....
(Signature)

.....
(Date)

Notes:

1. Insert either the name of the applicant or the serial number assigned to the applicant for the purposes of the application.
2. Insert the name and surname of the child.
3. Insert the name and surname of the agreeing party.
4. Insert the address of the agreeing party.”.

SCHEDULE 3

(Rule 7(f))

“FORM No. 11

Rule 28A(3)

APPLICATION TO RECEIVE INFORMATION FROM COURT RECORDS

I,....., of.....
.....⁽¹⁾ was born on (the “**applicant**”).

My name on adoption was⁽²⁾

The name of my adoptive parent(s) is
and the date of my adoption was.....⁽³⁾

I apply for a copy of the following documents –

- The application form for an adoption order (this will not include the documents attached to that form).
- The adoption order or any other order relating to the adoption proceedings, including a freeing order.
- Order(s) allowing any person contact with the child after the adoption order was made.
- Any transcript or written reasons of the court’s decision.
- A report made to the Court by –
 - the child’s guardian *ad litem*.
 - the Fostering and Adoption Service.

Attached is a full certified copy of –

- the entry in the Adopted Children Register which relates to me.
- my current [passport] [driving licence]⁽⁴⁾.

.....
(Signature)

.....
(Date)

Notes:

1. Insert your address.
2. Insert your name on adoption if different from your current name.
3. Insert the date of your adoption, if known.
4. Delete as appropriate.”.

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- ¹ *chapter 12.050*
² *chapter 12.050.50*