



Statutory Document No. 216/03

THE ADOPTION ACT 1984

THE ADOPTION RULES 2003

Approved by Tynwald

20th May 2003

Coming into operation

1st October 2003

In exercise of the powers conferred on the Deemsters by section 52 of the Adoption Act 1984¹, and of all other enabling powers, the following Rules are hereby made:—

PART 1

INTRODUCTORY

1. Citation, commencement and interpretation

(1) These Rules may be cited as the Adoption Rules 2003 and, subject to section 53 of the Act, shall come into operation on the 1st October 2003.

(2) In these Rules —

"the Act" means the Adoption Act 1984;

"the 1985 Regulations" means the Adoption Societies Regulations 1985²;

"accredited agency" has the same meaning as in the Convention Regulations;

"the child" means the person whom the applicant for an adoption order, order authorising a proposed foreign adoption or Convention adoption order proposes to adopt;

"the Convention" means the Convention on Protection of Children and Co-operation in respect of intercountry Adoption, concluded at the Hague on 29th May 1993³;

"Convention proceedings" means proceedings in the Court for a Convention adoption order or in connection with a Convention adoption order or a Convention adoption;

"the Convention Regulations" means the Adoption (Hague Convention) Regulations 2003⁴;

¹ 1984 c.14

² GC 284/85

³ Cm 2691

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"country of origin" means a country or territory which is, or is part of, the State of origin (within the meaning of the Convention);

"the Court" means the High Court;

"the Department" means the Department of Health and Social Security;

"interim order" means an order under section 10 of the Act;

"order authorising a proposed foreign adoption" means an order under section 43 of the Act;

"receiving country" means a country or territory which is, or is part of, the receiving State (within the meaning of the Convention);

"regular armed forces of the Crown" means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955 (an Act of Parliament)⁵, the regular air force as defined by section 223 of the Air Force Act 1955 (an Act of Parliament)⁶, the Queen Alexandra's Royal Naval Nursing Service and the Women's Royal Naval Service;

"Rules of the High Court" means the Rules of the High Court of Justice 1952.

(3) In these Rules a form referred to by number means the form so numbered in Schedule 1.

2. Application of Rules and other rules

(1) These Rules apply to proceedings in the Court under the Act commenced on or after the date on which these Rules come into operation.

(2) Subject to the provisions of these Rules and any other enactment, the Rules of the High Court shall apply with the necessary modifications to proceedings to which these Rules apply.

(3) For the purpose of paragraph (2) any provision of these Rules authorising or requiring anything to be done shall be treated as if it were a provision of the Rules of the High Court.

3. Revocation

Except in relation to proceedings commenced before the date on which these Rules come into operation, the following Rules are revoked —

- (a) the Adoption Rules 1985⁷;
- (b) the Adoption (Amendment) Rules 1992⁸;
- (c) the Adoption (Amendment) Rules 2001⁹.

⁴ SD 216/03

⁵ 1955 c.18

⁶ 1995 c.19

⁷ GC 195/85

⁸ GC 7/92

⁹ SD 162/01

PART 2

ADOPTION ORDERS

4. Application for a serial number

If any person proposing to apply to the Court for an adoption order wishes his identity to be kept confidential, he may, before commencing proceedings, apply to the Chief Registrar for a serial number to be assigned to him for the purposes of identifying him in the proposed application and a number shall be assigned to him accordingly.

5. Commencement of proceedings

(1) Proceedings for an adoption order shall be commenced by filing an originating application in Form 1 in the General Registry.

(2) The applicant shall be the intending adopter and the respondents shall be —

- (a) each parent or guardian (not being an applicant) of the child;
- (b) the Department;
- (c) any person liable by virtue of any order or agreement to contribute to the maintenance of the child;
- (d) any adoption society named in the application, or in any form of agreement, as having taken part in the arrangements for the adoption of the child;
- (e) in a case where the applicant proposes to rely upon section 4(1)(b)(ii) of the Act, the spouse of the applicant.

(3) The Court may at any time direct that any other person or body, not being the child, be made a respondent to the application.

(4) On filing the originating application, the applicant shall supply 3 copies of —

- (a) Form 1, together with any documents required to be supplied, and
- (b) where the child was not placed for adoption with the applicant by an adoption agency, save where the applicant or one of the applicants is a parent of the child, reports by a registered medical practitioner made not more than 3 months earlier on the health of the child and of each applicant, covering the matters specified in Schedule 2.

6. Preliminary examination of application

If it appears to the Chief Registrar on receipt of an originating application for an adoption order that the Court —

- (a) may be precluded, by virtue of section 9(1) of the Act, from proceeding to hear the application, or
- (b) may for any other reason appearing in the application have no jurisdiction to make an adoption order,

he shall refer the application to the Court for directions.

7. Appointment and duties of guardian ad litem

(1) As soon as practicable after an originating application has been filed the Chief Registrar shall request the Court to appoint a guardian ad litem of the child and shall serve on the guardian ad litem a copy of the originating application together with the documents attached thereto.

(2) No person shall be appointed to be a guardian ad litem if he is a respondent or is a member, officer or servant of a respondent body, other than the Department.

(3) With a view to safeguarding the interests of the child before the Court, the guardian ad litem shall, so far as is reasonably practicable —

- (a) investigate —
 - (i) so far as he considers necessary, the matters alleged in the originating application, any report supplied under rule 11(1) or (2), any reports filed under the Convention or the Convention Regulations and, where appropriate, the statement of facts supplied under rule 8; and
 - (ii) any other matters which appear to him to be relevant to the making of an adoption order;
- (b) advise whether, in his opinion, the child should be present at the hearing of the application; and
- (c) perform such other duties as appear to him to be necessary or as the Court may direct.

(4) On completing his investigations the guardian ad litem shall make a report in writing to the Court, drawing attention to any matters which, in his opinion, may be of assistance to the Court in considering the application.

(5) With a view to obtaining the directions of the Court on any particular matter, the guardian ad litem may at any time make such interim report to the Court as appears to him to be necessary.

(6) The Court may, at any time before the final determination of the application, require the guardian ad litem to perform such further duties as the Court considers necessary.

(7) The guardian ad litem shall attend any hearing of the application unless the Court otherwise orders.

- (8) Any report made to the Court under this rule shall be confidential.

8. Statement of facts in dispensation cases

(1) Where the applicant intends to request the Court to dispense with the agreement of a parent or guardian of the child on any of the grounds specified in section 5(2) of the Act, the request shall, unless otherwise directed, be made in the originating application or, if made subsequently, by notice to the Chief Registrar and there shall be attached to the originating application, or notice, 3 copies of a statement of the facts on which the applicant intends to rely.

(2) Where a serial number has been assigned to the applicant under rule 4, the statement of facts supplied under paragraph (1) shall be framed in such a way as not to disclose the identity of the applicant.

(3) Where a statement of facts has been supplied under paragraph (1), the Chief Registrar shall, where and as soon as practicable, inform the parent or guardian of the request to dispense with his agreement and shall send to him a copy of the statement supplied under paragraph (1).

(4) The Chief Registrar shall also send a copy of the statement supplied under paragraph (1) to the guardian ad litem.

9. Agreement

(1) Any document signifying the agreement of any person to the making of an adoption order for the purposes of section 5 of the Act may be in Form 2 and, if executed by a person outside the Island before the commencement of the proceedings, shall be filed with the originating application.

(2) If the document is executed in the Island, it shall be witnessed by a justice of the peace or a commissioner for oaths.

(3) If the document is executed in the United Kingdom, it shall be witnessed by —

- (a) a justice of the peace; or
- (b) a commissioner for oaths; or
- (c) if it is executed in Scotland, a sheriff.

(4) If the document is executed outside the Island or the United Kingdom it shall be witnessed by —

- (a) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purposes; or
- (b) a British consular officer; or
- (c) a notary public; or
- (d) 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.

10. Notice of hearing

(1) Subject to paragraph (4), the Chief Registrar shall list the case for hearing by the Court as soon as practicable after the originating application has been filed and shall serve notice of the hearing on all parties and on the guardian ad litem in Form 3.

(2) In a case where section 7 of the Act applies, the Chief Registrar shall send a copy of the originating application and of the report supplied under rule 7(4) to the Department.

(3) No person other than the guardian ad litem and, in cases where section 7 of the Act applies, the Department shall be served with a copy of the originating application.

(4) Where section 7 of the Act applies, the Chief Registrar shall list the case for hearing on a date not less than 3 months from the date of the notice given to the Department under that section.

(5) If, at any stage before the hearing of the application, it appears to the Court that directions for the hearing are required, the Court may give such directions as it considers necessary and, in any event, the Court shall, not less than 4 weeks before the date fixed for the hearing under paragraph (1), consider the documents relating to the application with a view to giving such further directions for the hearing as appear to the Court to be necessary.

11. Reports by adoption agency etc.

(1) Where the child was placed for adoption with the applicant by an adoption agency, that agency shall supply, within 6 weeks of receipt of the notice of hearing under rule 10, 3 copies of a report in writing covering the matters specified in Schedule 3.

(2) Where the child was not placed for adoption with the applicant by an adoption agency, the Department shall supply, within 6 weeks of receipt of the notice of hearing under rule 10, 3 copies of a report in writing covering the matters specified in Schedule 3.

(3) The Court may request a further report under paragraph (1) or (2) and may indicate any particular matters it requires such a further report to cover.

(4) The Chief Registrar shall send a copy of any report supplied under paragraph (1) or (2) to the guardian ad litem.

(5) No other person shall be supplied with a copy of any report supplied under paragraph (1) or (2) and any such report shall be confidential.

12. The hearing

(1) On the hearing of the application, any person upon whom notice is required to be served under rule 10 may attend and be heard on the question whether an adoption order should be made.

(2) Any member, officer or employee of a party which is a Department, adoption society or other body may address the Court if he is duly authorised in that behalf.

(3) If a serial number has been assigned to the applicant under rule 4, proceedings shall be conducted with a view to securing that he is not seen by or made known to any respondent who is not already aware of his identity except with his consent.

(4) Subject to paragraphs (5) and (7), the Court shall not make an adoption order or an interim order except after the personal attendance before it of the applicant and the child.

(5) If there are special circumstances which, having regard to the report of the guardian ad litem, appear to the Court to make the attendance unnecessary, the Court may direct that the child need not attend.

(6) If there are special circumstances which appear to the Court to make the attendance of any other party necessary, the Court may direct that that party shall attend.

(7) In the case of an application under section 3 of the Act, the Court may in special circumstances make an adoption order or an interim order after the personal attendance of one only of the applicants, if the originating application is verified by an affidavit sworn by the other applicant or, if he is outside the Island, by a declaration made by him and attested by a person specified in rule 9(3) or (4), as the case may be.

13. Proof of identity of child, etc.

(1) Where the child who is the subject of the proceedings is identified in the originating application by reference to a birth certificate which is the same, or relates to the same entry in the registers of births, as a birth certificate exhibited to a form of agreement, the child so identified shall be deemed, unless the contrary appears, to be the child to whom the form of agreement refers.

(2) Where the child has previously been adopted, paragraph (1) shall have effect as for if the references to a birth certificate and to the registers of births there were substituted respectively references to a certified copy of an entry in the Adopted Children Register and to that Register.

(3) 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 may be specified in the adoption order as the date of his birth.

(4) Where the place of birth of the child is not proved to the satisfaction of the Court but it appears probable that he was born in the Island, the United Kingdom or the Channel Islands he may be treated as having been born in the registration district of Douglas, and in any other case (where the country of birth is not proved) the particulars of the country of birth may be omitted from the adoption order.

(5) In the circumstances mentioned in section 5(2A) of the Act, any order identifying the probable date and place of birth and made in the proceedings under the relevant provision mentioned in the said section 5(2A) shall be sufficient proof of the date and place of birth of the child in the proceedings to which this rule applies.

14. Further proceedings after interim order

Where the Court has made an interim order, the Chief Registrar shall —

- (a) list the case for further hearing by the Court on a date before the order expires, and
- (b) send notice in Form 3 of the date of the hearing to all the parties and to the guardian ad litem not less than one month before that date.

PART 3

MISCELLANEOUS

15. Applications for removal, return etc., of child

- (1) An application —
 - (a) under section 17(1), 18(1) or 18(2) of the Act to remove a child from the custody of the person with whom the child has his home; or
 - (b) under section 19(1) of the Act for an order for the return of a child who has been removed, in breach of section 17 or 18 of the Act, from the custody of such a person, or
 - (c) under section 19(2) of the Act for an order directing a person not to remove the child from the custody of such a person, or
 - (d) under section 20(2) of the Act for leave to give notice under section 20(1)(b) of the Act,

shall be made in accordance with paragraph (2).

- (2) The application under paragraph (1) shall be made —
 - (a) if an application for an adoption order is pending, by application on notice to the Chief Registrar in those proceedings;
 - (b) in any other case, by filing an originating application in the General Registry.

(3) Any respondent to an originating application made in accordance with paragraph (2)(b) who wishes to claim relief shall do so by means of an answer to the application which shall be made within 7 days of the service of a copy of the application on the respondent.

(4) Subject to paragraph (5), the Chief Registrar shall serve a copy of the application, and of any answer to the application, and a notice of the time of the hearing —

- (a) in a case where proceedings for an adoption order are pending (or where such proceedings have subsequently been commenced), on all the parties to those proceedings and on the guardian ad litem;
- (b) in any other case, on any person against whom an order is sought in the application and on the Department; and

(c) in any case, on such other person or body, not being the child, as the Court thinks fit.

(5) If in the case of any application under this rule, a serial number has been assigned to any person who has applied or who proposes to apply for an adoption order, or such a person applies to the Chief Registrar in that behalf before filing the originating application and a serial number is assigned to him accordingly

(a) the Chief Registrar shall ensure that the documents to be served under paragraph (4) do not disclose the identity of that person to any other party to the application who is not already aware of that person's identity, and

(b) the proceedings on the application shall be conducted with a view to securing that that person is not seen by or made known to any other party to the application who is not already aware of his identity, except with his consent.

(6) Unless otherwise directed, any prospective adopter who is served with a copy of an application under this rule, and who wishes to oppose the application, shall file his application for an adoption order within 14 days or before or at the time when he is heard on the application under this rule, whichever is the sooner.

(7) The Court may at any time give directions, and if giving directions under paragraph (6) shall give further directions, as to the conduct of any application under this rule and in particular as to the appointment of a guardian ad litem of the child.

(8) Where an application under paragraph (1)(a) or (d) is granted or an application under paragraph (1)(b) or (c) is refused, the Court may thereupon, if an application for an adoption order has been filed, treat the hearing of the application as the hearing of the application for an adoption order and refuse an adoption order accordingly.

(9) Where an application under this rule is determined the Chief Registrar shall serve notice of the effect of the determination on all parties.

(10) Paragraphs (5) to (9) apply to an answer made under this rule as they apply to an originating application under this rule as if the answer were the originating application.

16. Proposed foreign adoption proceedings

(1) An application for an order authorising a proposed foreign adoption shall be made by filing in the General Registry an originating application in Form 1.

(2) Subject to paragraph (3), Part 2 (except rule 5(1)) and this Part apply to an application for an order authorising a proposed foreign adoption as they apply to an application for an adoption order as if such an order were an adoption order.

(3) An applicant for an order authorising a proposed foreign adoption shall provide evidence of the law of adoption in the country in which he is domiciled, and

an affidavit as to that law sworn by such a person as is mentioned in section 4(1) of the Evidence Act 1983¹⁰ (that is to say a person who is suitably qualified on account of his knowledge or experience to give evidence as to that law) shall be admissible in evidence without notice.

17. Requirements applying to prospective adopters of child from abroad

(1) The requirements which a prospective adopter must satisfy before bringing a child into the Island are that —

- (a) the prospective adopter has applied to an adoption agency for assessment of his suitability to be an adoptive parent and has followed such procedure and provided such information to the agency as it may request in order to enable it to undertake such an assessment;
- (b) an adoption agency has notified the prospective adopter in writing of a decision to approve him as suitable to be an adoptive parent; and
- (c) the Department has notified the prospective adopter in writing that it is prepared to issue a certificate confirming to the relevant overseas authority that —
 - (i) the prospective adopter has been assessed and approved as suitable to be an adoptive parent and
 - (ii) the child will be authorised to reside permanently within the British Islands, if entry clearance is granted and an adoption order is made.

(2) A prospective adopter must also within the period of 14 days beginning with the date on which he brings the child into the Island give notice to the Department of —

- (a) his intention to apply for an adoption order, in accordance with section 7 of the Act; or
- (b) his intention not to give the child a home.

(3) In this rule —

"the relevant overseas authority" means a person or body performing functions in the country in which the child is habitually resident which correspond to the functions of an adoption agency;

"entry clearance" has the same meaning as in the Immigration Act 1971 (an Act of Parliament)¹¹, as it has effect in the Island¹².

18. Power of court to limit cross-examination

The Court may limit the issues on which a guardian ad litem may be cross-examined.

¹⁰ 1983 c.7

¹¹ 1971 c.77

¹² SI 1991/2630

19. Application for declaration as to an adoption effected overseas

(1) An application for a declaration as to an adoption effected overseas under section 49A of the Act shall be made by petition, supported by an affidavit by the petitioner or, in the case of a petitioner under the age of 18, by his next friend, verifying the petition and giving particulars of every person whose interest may be affected by the proceedings and his relationship to the petitioner.

(2) Unless otherwise directed, the petition shall state —

- (a) the names of those persons who are to be respondents pursuant to paragraph (5) and the residential address of each of them as at the date of the presentation of the petition;
- (b) the date and place of the petitioner's birth;
- (c) the date and place of the adoption order and the court or other tribunal or authority which made it;
- (d) all other material facts alleged by the petitioner to justify the making of the declaration and the grounds on which the application is made;
- (e) either that the petitioner is domiciled in the Island on the date of the presentation of the petition or that he has been habitually resident in the Island throughout the period of one year ending with that date.

(3) There shall be annexed to the petition a copy of the petitioner's birth certificate (which, if it is available, shall be the one made after the adoption referred to in the petition) and, unless otherwise directed, a certified copy of the adoption order effected under the law of any country outside the British Islands.

(4) Where a document produced under paragraph (3) is not in English it shall, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit.

(5) The following, if alive, shall be respondents to the application —

- (a) those whom the petitioner claims are his adoptive parents for the purpose of section 29 of the Act; or
- (b) those whom the petitioner claims are not his adoptive parents for the purpose of that section.

(6) Without prejudice to rule 2(2), Order 51F of the Rules of the High Court shall apply with any necessary modifications to the application as it applies to an application for a declaration under section 10A of the Legitimacy Act 1985¹³.

(7) A declaration as to an adoption effected overseas under section 49A of the Act shall be in Form 4.

¹³ 1985 c.10

20. Costs

On the determination of any proceedings to which these rules apply or on the making of an interim order, the Court may make such order as to costs as it thinks just and, in particular, may order the applicant to pay —

- (a) the expenses incurred by the guardian ad litem;
- (b) the expenses incurred by any respondent in attending the hearing,

or such part of those expenses as the Court thinks proper.

21. Notice and copies of orders etc.

(1) In proceedings to which these rules apply orders shall be made in the form indicated below —

Interim order	Form 5
Adoption order	Form 6
Convention adoption order	Form 6 (with the word "Convention" inserted where appropriate)
Order authorising a proposed foreign adoption	Form 6 (with the words "order authorising a proposed foreign adoption substituted for the words "adoption order" wherever they appear).

(2) Within 7 days after the making of an order in proceedings to which these rules apply the Chief Registrar shall send a copy of the order to the applicant.

(3) Where an adoption order or an order authorising a proposed foreign adoption is made or refused or an interim order is made, the Chief Registrar shall serve notice to that effect on every respondent.

(4) A copy of any order may be supplied to the applicant and, with the leave of the Court, to any other person.

(5) Within 7 days of the making of an order to annul a Convention adoption order or a Convention adoption, the Chief Registrar shall send a copy of the order to the applicant, every respondent and the Department

22. Custody, inspection and disclosure of documents and information

(1) All documents relating to proceedings under the Act (or under any previous enactment relating to adoption) shall, while they are in the custody of the Court, be kept in a place of special security.

(2) A party who is an individual and is referred to in a confidential report supplied to the Court by an adoption agency, the Department or a guardian ad litem may inspect, for the purposes of the hearing, that part of any such report which refers to him, subject to any direction by the Court that —

- (a) no part of one or any of the reports shall be revealed to that party, or

- (b) the part of one or any of the reports referring to that party shall be revealed only to that party's legal advisers, or
 - (c) the whole or any other part of one or any of the reports shall be revealed to that party.
- (3) Any person who obtains any information in the course of, or relating to, any proceedings mentioned in paragraph (1) shall treat that information as confidential and shall only disclose it if —
- (a) the disclosure is necessary for the proper exercise of his duties, or
 - (b) the information is requested —
 - (i) by a court or public authority (whether in the Island or not) having power to determine adoptions and related matters, for the purpose of the discharge of its duties in that behalf, or
 - (ii) by a person who is authorised in writing by the Clerk of the Rolls to obtain the information sought for the purposes of research.
- (4) Save as required or authorised by a provision of any enactment or of these rules or with the leave of the Court, no document or order held by or lodged with the Court in proceedings under the Act (or under any previous enactment relating to adoption) shall be open to inspection by any person, and no copy of any such document or order, or of an extract from any such document or order, shall be taken by or issued to any person.

PART 4

CONVENTION PROCEEDINGS

23. Introductory

This Part applies to Convention proceedings and, subject to the provisions of this Part, Parts 1, 2 and 3 apply, with the necessary modifications, to Convention proceedings as they apply to other proceedings in the Court under the Act.

24. Originating application

- (1) An applicant for a Convention adoption order shall state in his originating application that he is applying for a Convention adoption order.
- (2) The originating application —
 - (a) need not contain paragraphs corresponding to paragraph 2 or 20 of Form 1 but
 - (b) shall contain the additional information required by Schedule 4.

25. Prescribed requirements for purposes of making Convention adoption order

(1) For the purposes of section 6 of the Act (requirements in respect of Convention adoption order), the prescribed requirements are —

- (a) where the Island is the receiving country —
 - (i) both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) have been habitually resident in part of the British Islands for a period of not less than 1 year ending with the date of the application;
 - (ii) the child to be adopted has not attained the age of 18 years on the date of the application;
 - (iii) the child to be adopted was, on the date on which the agreement under Article 17(c) was made, habitually resident in a Convention country outside the British Islands;
 - (iv) in a case where the applicant (in the case of an application by one person) or one of the spouses (in the case of an application by a married couple) is not a British citizen by virtue of the British Nationality Act 1981¹⁴, the Home Office has confirmed that the child is authorised to enter and reside permanently in the Island;
- (b) where the Island is the country of origin —
 - (i) both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) are habitually resident in a Convention country outside the British Islands on the date of the application;
 - (ii) either each parent or guardian of the child freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants), or there is in force in respect of the child an order mentioned in section 5(2A) of the Act;
 - (iii) the child is habitually resident in any part of the British Islands on the date of the application; and
 - (iv) the child has not attained the age of 18 years on the date of application.

(2) The requirements specified in paragraph (1) may be established by a document executed by the applicant containing a statement to that effect attested in accordance with rule 30 and such a statement shall be admissible in evidence without further proof of the signature of the applicant.

¹⁴ 1981 c.61

26. Form of consent etc

(1) Any document signifying the consent of a person to, or otherwise containing the opinion of a person on the making of, the Convention adoption order shall be in a form which complies with the internal law relating to adoption of the Convention country in which the child is habitually resident: provided that where the Court is not satisfied that a person consents with full understanding of what is involved, it may call for further evidence.

(2) A document referred to in paragraph (1) shall, if sufficiently witnessed, be admissible as evidence of the consent or opinion contained therein without further proof of the signature of the person by whom it is executed.

(3) A document referred to in paragraph (1) shall, if executed before the date of the applicant's originating application, be attached to that application.

27. Notice of hearing

(1) When serving notice of the hearing on the persons specified in rule 10, the Chief Registrar shall also serve notice on any person —

- (a) whose consent to the making of the order is required, not being an applicant, or
- (b) who, in accordance with the internal law relating to adoption of the Convention country in which the child is habitually resident, has to be consulted about, but does not have to consent to, the adoption.

(2) Any person served or required to be served with notice under this rule shall be treated as if he had been served or was required to be served with notice under rule 10.

28. Removal of child by adoption agency

(1) This rule applies where —

- (a) a notice under regulation 14(7) of the Convention Regulations has been given but has not been complied with; or
- (b) before such a notice was given an application for a Convention adoption order has been made and not disposed of.

(2) An application for the return of the child shall be made by the Department by petition or, where paragraph (1)(b) applies, by application in the existing proceedings.

(3) The respondents shall be —

- (a) the prospective adoptive parents,
- (b) the child, and
- (c) the adoption agency (if not the Department);

and the Court may require notice of the application to be served on such other persons as it thinks fit.

(4) Any respondent who wishes to contest the notice shall, within 7 days of service of the notice upon him, file and serve an answer.

(5) The Chief Registrar shall list the case for hearing on a date not more than 21 days from the date the application under paragraph (2) was submitted to the Court.

29. Specific applications

(1) Where a Convention adoption order is to be or has been sought and has not been disposed of, the applicant or proposed applicant may apply to the Court for an order-

- (a) permitting the child to be known by a new surname, or
- (b) permitting the child to be removed from the Island for a period of one month or more.

(2) The application under paragraph (1) shall be made —

- (a) if an application for a Convention adoption order under section 17 of the Act is pending, in those proceedings; or
- (b) if no such application is pending, by petition.

(3) The Chief Registrar shall serve a copy of the application and a notice of the date of the hearing —

- (a) in a case where proceedings for an adoption order are pending, on all the parties to those proceedings and on the guardian ad litem; and
- (b) in any other case, on the Department and (if not the Department) the accredited agency.

30. Witnessing of documents

A document shall be sufficiently attested for the purposes of this Part if it is witnessed by one of the following persons —

- (a) if it is executed in the Island, the guardian ad litem, a justice of the peace, a commissioner for oaths or an officer of the General Registry authorised for the purpose;
- (b) if it is executed elsewhere, any person specified in rule 9(3) or (4), according to the country in which it is executed.

31. Service of documents

(1) Any document to be served for the purposes of this Part may be served out of the jurisdiction without the leave of the Court.

(2) Any document served out of the jurisdiction in a country in which English is not an official language shall be accompanied by a translation of the document in the official language of the country in which service is to be effected or, if there is more than one official language of the country, in any one of those

languages which is appropriate to the place in that country where service is to be effected.

32. Translation of documents

Where a translation of any document is required for the purposes of Convention proceedings, the translation shall, unless otherwise directed, be provided by the applicant.

PART 5

ANNULMENT OR REVOCATION OF ADOPTION ETC.

33. Introductory

Subject to the provisions of this Part, Parts 1 and 3 apply, with the necessary modifications, to proceedings under this Part as they apply to other proceedings in the Court under the Act; and rules 30 to 32 apply to proceedings under this Part as they apply to Convention proceedings.

34. Application to revoke or annul adoption

(1) An application for an order under section 40(1) or 41(1) of the Act shall be made by an originating application in Form 7; and the adopted person and any adopter, not being the applicant, shall be the respondents to the application.

(2) An application under section 41(1) of the Act shall not, except with the leave of the Court, be made later than 2 years after the date of the adoption to which it relates.

(3) An application under section 41(1) of the Act may be made by —

- (a) the Department,
- (b) the adoptive parents,
- (c) the child,
- (d) the accredited agency by which the case was dealt with, or
- (e) the Attorney General;

and the Court may require notice of the application to be served on such persons as it thinks fit.

35. Application for direction where full adoption has not been made

(1) An application for a direction under section 29(3A) of the Act may be made by the adopted child, the adopters or the natural parents of the child and shall be made by an originating application in Form 8; and the respondents to the application shall be —

- (a) the Department;
- (b) the adoptive parents (if not the applicant),
- (c) the child (if not the applicant),
- (d) the accredited agency by which the case was dealt with, and
- (e) the Attorney General;

and the Court may require notice of the application to be served on such other persons as it thinks fit.

(2) Any direction given in accordance with section 29(3A) of the Act shall be in Form 9.

36. Application to declare adoption invalid or determination invalid or affected

An application for an order or decision under section 41(2) of the Act shall be made by originating application in Form 10; and the adopted person and any adopter, not being the applicant, shall be the respondents to the application.

37. Evidence in support of application

(1) Evidence in support of an application under section 40 or 41 of the Act shall be given by means of an affidavit in Form 11 which shall be filed within 14 days after the application.

(2) There shall be exhibited to the affidavit a statement of the facts and there shall be filed with the affidavit expert evidence of any provision of foreign law relating to adoption on which the applicant intends to rely.

(3) The Court may order any deponent to give oral evidence concerning the facts stated in, or exhibited to, his affidavit.

38. Guardian ad litem

Where the adopted person is under the age of 18 on the date on which an application under section 40 or 41 of the Act is made, rule 7 applies to the application with any necessary modifications as it applies to an application for an adoption order.

39. Notice of order under section 40 or 41

Where under section 40 or 41 of the Act the Court has ordered that an adoption be annulled or revoked or that an adoption or determination shall cease to be valid in the Island, the Chief Registrar shall serve notice of the order on the Department, stating in the notice —

- (a) the date of the adoption;
- (b) the name and address of the authority which granted the adoption; and

- (c) the names of the adopter or adopters and of the adopted person as given in the affidavit referred to in rule 37;

and request the Department to notify the Central Authority of any Convention country which is the country of origin or the receiving country.

40. Amendment and revocation of orders

An application under paragraph 4 of Schedule 2 to the Act for the amendment of an adoption order or the revocation of a direction to the Chief Registrar, or under section 40 of the Act for the revocation of an adoption order, may be made *ex parte* in the first instance, but the Court may require notice of the application to be served on such persons as it thinks fit.

Notes

Heading: Enter the first name(s) and surname of the child as shown in any certificate referred to in paragraph 6 below; otherwise enter the first name(s) and surname by which the child was known before being placed for adoption.

Paragraph 1: Insert the address where the applicant has his home and the place (if different) where documents may be served upon him.

Paragraph 2: May be deleted if the application is for an order authorising a proposed foreign adoption or Convention adoption order.

Paragraph 3: Documentary evidence of marital status should be supplied. A married applicant can apply alone if he or she can satisfy the court that his or her spouse cannot be found, or that they have separated and are living apart and that the separation is likely to be permanent, or that by reason of physical or mental ill health the spouse is incapable of making an application for an adoption order. Any documentary evidence on which the applicant proposes to rely should be attached to the application. The name and address (if known) of the spouse should be supplied, and the marriage certificate (or other evidence of marriage) should be attached.

Paragraph 4: State the reason to be relied upon e.g. that the other natural parent is dead, or cannot be found, or that there is some other reason, which should be specified, justifying his or her exclusion. Documentary evidence, e.g. a death certificate, should be supplied where appropriate.

Paragraph 5: A separate health report is required in respect of each applicant, and the report must have been made during the period of 3 months before the date of the application. No report is required, however, if the child was placed for adoption with applicant by an adoption agency, or if he is the child of the applicant or either of them, or if the application is for a Convention adoption order.

Part 2

Particulars of the child

6. Identity etc

The child is of the [male][female] sex and is not and has not been married. He/she was born on the [date] and is the person to whom the attached [birth] [adoption] certificate relates [or was born on or about the [date] in [country]]. He/she is a [nationality] national.

7. Health

A report on the health of the child, made by a registered medical practitioner on the [date], is attached.

8. Parentage, etc

(a) The child is the child of [name] [whose last known address was [address]] [deceased] and [name] [whose last known address was [address]] [deceased]

(b) [The guardian(s) of the child (other than the mother or the father of the child) is/are [name] of [address] [and [name] of [address]].]

9. Parental agreement

(a) [I/We understand that the said [name] [and [name]] is/are willing to agree to the making of an adoption order in pursuance of my/our application.]

(b) [I/we request the court to dispense with the agreement of [name] [and [name]] on the ground(s) that [name] [and [name]] [grounds for dispensing with consent] and there are attached hereto 3 copies of a statement of the facts upon which I/we intend to rely.]

(c) [The agreement of each parent or guardian to the making of an adoption order is not required by virtue of an order under [section 18 of the Adoption Act 1976 (an Act of Parliament)] [section 18 of the Adoption (Scotland) Act 1978 (an Act of Parliament)] [article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987] freeing the child for adoption.]

10. Care etc.

[The Department of Health and Social Security has parental responsibility for the child by virtue of [a care order made by the [title or description of court] on [date]] [a resolution of that Department passed on [date]].]

11. Maintenance

[*Name*] of [*address*] is liable by virtue of an order made by the [*title or description of court*] on [*date*] [or by an agreement dated [*date*]] to contribute to the maintenance of the child.]

12. Proposed names

If an adoption order is made in pursuance of this application, the child is to be known by the following names:

Surname

Other names

Notes

Paragraph 6: If the child has previously been adopted a certified copy of the entry in the Adopted Children Register should be attached and not a certified copy of the original entry in the Registers of Births. Where a certificate is not attached, enter the place (including the country) of birth if known.

Paragraph 7: The report must have been made during the period of 3 months before the date of the application. No report is required, however, if the child was placed for adoption with the applicant by an adoption agency, or if he is the child of the applicant or either of them, or if the application is for a Convention adoption order.

Paragraph 8: This paragraph does not apply where an order made by a United Kingdom court freeing the child for adoption is in force.

(a) Parents: if the child has previously been adopted, give the names of his adoptive parents and not those of his natural parents; if the child is not a marital child and the father has parental responsibility for the child, give details under paragraph 18 of the court order or the agreement which provides for parental responsibility.

(b) Guardians: enter particulars of any person appointed by a court of competent jurisdiction, or by deed or will under section 7 of the Family Law Act 1991 or the Guardianship of Infants Act 1953 or any corresponding enactment in the United Kingdom; delete this section if the child has no guardian.

Paragraph 9:

(a) & (b) Parental consent: enter in section (a) or (b) the names of the persons mentioned in paragraph 8, except that in the case of a child who is not a marital child the father of the child should be entered only if he has parental responsibility for the child by virtue of a court order or by agreement or he has a residence order in respect of the child. Where it is sought to dispense with parental agreement, enter in section (b) one or more of the grounds set out in section 5(2) of the Act.

(c) Child freed for adoption: any order made by a United Kingdom court freeing the child for adoption should be attached. Paragraphs 10 and 11 do not apply where such an order is in force.

Paragraph 10: This paragraph should be completed where the child is in the care of the Department of Health and Social Security.

Paragraph 11: This paragraph should be completed where some person or body is liable to contribute to the maintenance of the child under a court order or agreement.

Part 3

General

13. Residence

The child has lived with me/us continuously since the *date*] (and has accordingly had his home with me/us for the [13 weeks] [12 months] preceding the date of this application).

14. Placement

The child [was (placed with me/us for adoption on the *date*] by [*name of agency*], an adoption agency] [received into my/our home in the following circumstances:—

]

15. Notice to DHSS

I/we notified the Department of Health and Social Security on the *[date]* of my/our intention to apply for an adoption order in respect of the child.

16. Other proceedings

No proceedings relating in whole or in part to the child have been completed or commenced in any court in the Isle of Man or elsewhere [except]

17. Payment, arrangements etc.

(a) I/we have not received or given any payment or reward for, or in consideration of, the adoption of the child, for any agreement to the making of an adoption order, the transfer of the home of the child with a view to adoption or the making of any arrangements for adoption [except as follows:—]

(b) As far as I/we know, the only person(s) or bod(y)(ies) who have taken part in the arrangements for the child's adoption are

18. References

For the purpose of this application reference may be made to *[name]* of *[address]*.

[19. Confidentiality

I/we desire that my/our identity should be kept confidential, and the serial number of this application is]

[20. Foreign adoption

I/we intend to adopt the child under the law of or within *[country]* which is the country of my/our domicile, and evidence as to the law of adoption in that country is filed with this application.

I/we desire to remove the child from the British Islands for the purpose of adoption.]

I/we accordingly apply for [an adoption order] [an order authorising a proposed foreign adoption] [a Convention adoption order] in respect of the child.

Dated

Signature[s]

Notes

Paragraphs 13 & 14: Under section 2 of the Act, an adoption order cannot be made unless the child has had his home with the applicants or one of them:—

- (a) for at least 13 weeks if the applicant or one of them is a parent, step-parent or relative of the child or if the child was placed with the applicant by an adoption agency or in pursuance of an order of the High Court;
- (b) for at least 6 months if the proposed adoption is to be effected by a Convention adoption order;
- (c) for at least 12 months in any other case.

Paragraph 15: Notice does not have to be given if the child was placed with the applicant by an adoption agency. Where notice does have to be given, no order can be made until the expiration of 3 months from the date of the notice.

Paragraph 16: The nature of the proceedings and the date and effect of any orders made should be stated. The court cannot proceed with the application if a previous application made by the same applicant in relation to the child was refused, unless one of the conditions in section 9(1) of the Act is satisfied.

Paragraph 17: (b) Enter the name and address of the adoption agency or individual who took part in the arrangements for placing the child for adoption in the home of the applicant.

Paragraph 18: Where the applicant or one of the applicants is a parent of the child, or a relative as defined by section 58(1) of the Act or the child was placed with the applicant by an adoption agency, or if the application is for a Convention adoption order , no referee need be named.

Paragraph 19: If the applicant wishes his identity to be kept confidential, the serial number obtained under rule 4 should be given.

FORM 2

Agreement to an Adoption Order/Proposed Foreign Adoption/a Convention adoption order

[Heading as in Form 1]

Whereas an application is to be/has been made by

[and _____] [under the serial no _____] for an adoption order, a Convention adoption order or an order authorising a proposed foreign adoption in respect of _____ a child;

And whereas the child is the person to whom the birth certificate now produced and shown to me marked "A" relates:

[And whereas the child is at least 6 weeks old:

I, the undersigned _____ of _____

Being a parent/guardian of the child hereby state as follows:—

1. I understand that the effect of an adoption order/a Convention adoption order /an order authorising a proposed foreign adoption will be to deprive me permanently of the parental rights and duties relating to the child and to vest them in the applicant(s); and in particular I understand that, if an order is made, I shall have no right to see or get in touch with the child or to have him/her returned to me.

2. I further understand that the court cannot make an adoption order/a Convention adoption order/an order authorising the proposed foreign adoption of the child without the agreement of each parent or guardian of the child unless the court dispenses with an agreement on the ground that the person concerned -

- (a) cannot be found or is incapable of giving agreement, or
- (b) is withholding his agreement unreasonably, or
- (c) has persistently failed without reasonable cause to discharge the parental duties in relation to the child, or
- (d) has abandoned or neglected the child, or
- (e) has persistently ill-treated the child, or
- (f) has seriously ill-treated the child and the rehabilitation of the child within the household of the parent or guardian is unlikely.

3. I further understand that, when the application for an adoption order/ Convention adoption order/order authorising the proposed foreign adoption of the child 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.

4. I hereby freely, and with full understanding of what is involved, agreed unconditionally to the making of an adoption order/ a Convention adoption order/an order authorising the proposed foreign adoption of the child under section 43 of the Act in pursuance of the application.

5. As far as I know, the only person(s) or body(ies) who has/have taken part in the arrangements for the child's adoption is/are _____ [and _____]

6. I have not received or given any payment or reward for, or in consideration of, the adoption of the child, for any agreement to the making of an adoption order or placing the child for adoption with any person or making arrangements for the adoption of the child (other than payment to an adoption agency for their expenses incurred in connection with the adoption).

[Signature]

This form, duly completed, was signed by the said

Before me at _____

on the [date] _____

(Signature)

(Address)

(Description)

Notes

Preamble - Insert either the name(s) of the applicant(s) or the serial no. assigned to the applicant(s) for the purpose of the application.

Insert the name(s) and surname as known to the person giving agreement.

If the child has previously been adopted, a certified copy of the entry in the Adopted Children Register should be attached and not a certified copy of the original entry in the Registers of Births.

Where 2 or more forms of agreement are supplied to the court at the same time they may both or all refer to a certificate attached to one of the forms of agreement.

The father of a child who is not a marital child is not a parent for this purpose unless he has parental responsibility by virtue of a court order or an agreement or he has a residence order in respect of the child; "guardian" also means a person appointed to be the guardian of the child by deed or will in accordance with the Guardianship of Infants Act 1953, or by a court of competent jurisdiction, or under section 6 or 7 of the Family Law Act 1991 or section 6 or 7 of the Children and Young Persons Act 2001.

Paragraph 3: Notice will be given of the hearing of the application. After the making of the application the parent or guardian who has agreed cannot remove the child from the custody of the applicant(s) except with the leave of the court.

Paragraph 5: Enter the name of the adoption agency or individual who took part in the arrangements, for placing the child in the actual custody of the applicant(s).

Witness statement In the Isle of Man the document should be signed before a justice of the peace or a commissioner for oaths. In the United Kingdom, it should be witnessed by a justice of the peace or a commissioner for oaths, or (in Scotland) a sheriff. Outside the Isle of Man and the United Kingdom, it should be signed before a person authorised by law in the place where the document is executed to administer an oath for any judicial or legal purpose, a British consular officer, a notary public or, if the person executing the document is serving in the regular armed forces of the Crown, an officer holding a commission in any of those forces.

FORM 3

Notice of Hearing of an Application for an Adoption Order/an Order Authorising a Proposed Foreign Adoption/a Convention adoption order

[Heading as in Form 1]

To _____ of _____

WHEREAS an application for an adoption order/an order authorising a proposed foreign adoption/a Convention adoption order in respect of a child of the [sex] sex born on the [date], has been made [by _____ and _____] [or under the serial number _____]

AND WHEREAS _____ of _____ was appointed guardian ad litem of the child.

TAKE NOTICE:

[1. That the said application will be heard before the Court at [place] on the [date] at [time], and that you may then appear and be heard on the question whether an adoption order/an order authorising the proposed foreign adoption/a Convention adoption order should be made.]

[2. That if you wish to appear and be heard on the question whether an adoption order/an order authorising a proposed foreign adoption/a Convention adoption order should be made, you should give notice to the court on or before the [date], in order that a time may be fixed for your appearance.]

3. That you are not obliged to attend the hearing unless you wish to do so or the court notifies you that your attendance is necessary.

4. That while the application is pending, a parent or guardian of the child who has agreed to the making of an order must not, except with the leave of the court, remove the child from the actual custody of the applicant.

[5. That the application states that the child has had his home with the applicant for the 5 years preceding the application and accordingly, if that is correct, no person is entitled, against the will of the applicant, to remove the child from the applicant's actual custody except with the leave of the court or under authority conferred by any enactment or on the arrest of the child.]

[6. That the court has been requested to dispense with your agreement to the making of an order on the ground(s) that _____

and a statement of the facts on which the applicant intends to rely is attached.]

It would assist the court if you would complete the attached form and return it to me.

Dated _____

Chief Registrar

To the Chief Registrar

No. _____

I received notice of the hearing of the application on the [date].

I wish/do not wish to oppose the application.

I wish/do not wish to appear and be heard on the question whether an order should be made.

(Signature)

(Address)

(Date)

Notes: Paragraph numbers in these notes refer to the appropriate paragraph in the form.

Adoption Rules 2003

Where this form is used under rule 14 to give notice of a further hearing of an application it is to be amended so as to refer to a further hearing and so as to give particulars of the interim order.

Preamble Enter the name(s) and surname of the child as shown in the originating application. Enter the name of the applicant(s) unless the applicant has obtained a serial number, in which case the second part in brackets should be completed.

Paragraphs 1 and 2 Paragraph 1 should be completed and paragraph 2 struck out where the notice is addressed to any respondent where the applicant does not desire his identity to be kept confidential. Where a serial number has been assigned to the applicant and the notice is addressed to an individual respondent other than the spouse of the applicant, paragraph 1 should be struck out and paragraph 2 completed.

Paragraph 5 This paragraph should be deleted except where it appears from the originating application that the child has had his home with the applicant for 5 years.

Paragraph 6 Unless deleted, this paragraph should contain the grounds specified in the originating application.

FORM 4

Declaration as to an Adoption effected overseas

In Her Majesty's High Court of Justice of the Isle of Man

Common Law Division

In the matter of the Adoption Act 1984

Between

Petitioner

and

Respondents

Upon the petition of [petitioner] and upon hearing [petitioner] and upon hearing [respondents]

In the case of an overseas adoption

It is declared that, because the said [petitioner] was/was not adopted for the purposes of section 58(2) of the Adoption Act 1984 on the [date] in [country] by [adoptive parent], then for the purposes of section 29 of the Adoption Act 1984 the said [petitioner] is/is not the adopted child of the said [adoptive parent]

or, in the case of an adoption recognised by the law of the Island and effected under the law of any country outside the British Islands

It is declared that, because the said [petitioner] was/was not adopted for the purposes of being recognised under the law of the Isle of Man on the [date] in [country] by [adoptive parent], then for the purposes of section 29 of the Adoption Act 1984 the said [petitioner] is/is not the adopted child of the said [adoptive parent]

Dated

FORM 5

Interim Order

[Heading as in Form 1]

Whereas an application has been made by _____ of _____ [and
_____] for an adoption order in respect of _____
a child of the _____ sex, the child/adopted child of _____ [and
_____];

It is ordered that the determination of the application be postponed and that the applicant(s) do have the legal custody of the child until the *[date]*, by way of a probationary period [or that the determination of the application be postponed to the *[date]*, and that the applicant(s) do have the legal custody of the child until that day by way of a probationary period] [upon the following terms, namely

_____];

[and as regards costs it is ordered that _____ ;]

[and it is ordered that the application be further heard before the Court at *[place]* on the *[date]* at *[time]*.]

Dated _____

FORM 6

Adoption Order/ Convention Adoption Order/Order Authorising a Proposed Foreign Adoption

[Heading as in Form 1]

Whereas an application has been made by _____ of
whose occupation is _____ [and
whose occupation is _____] for an adoption order/an order
authorising a proposed foreign adoption in respect of _____, a child of the
sex, the child/adopted child of _____ [and
];

It is ordered that [the applicant(s) do adopt the child] [or the applicant(s) be authorised to remove the child from the Isle of Man for the purpose of adopting him/her under the law of or within the country in which the applicant is/applicants are domiciled, and that the parental rights and duties relating to the child (including the legal custody of the child) be vested in the applicant(s).

[And as regards costs, it is ordered that _____ ;]

[And it is recorded that [the _____, being an adoption agency, placed the child for adoption with the applicant(s)] [the Department of Health and Social Security] was notified of the applicant(s) intention to adopt the child;]

[And whereas the precise date of the child's birth has not been proved to the satisfaction of the court but the court has determined the probable date of his/her birth to be the *[date]*];]

[And whereas it has been proved to the satisfaction of the court that the child was born in *[country]*];]

And whereas the place of birth of the child has not been proved to the satisfaction of the court [but it appears probable that the child was born in the Isle of Man, the United Kingdom or the Channel Islands, the child is treated as having been born in the registration district of Douglas in the Isle of Man];]

[And whereas it has been proved to the satisfaction of the court that the child was born on the *[date]* [and is identical with _____ to whom the entry numbered _____ made on the *[date]* in the Register of Births for the registration district of _____ in the Isle of Man relates] [or with _____ to whom the entry numbered _____ and dated the *[date]*, in the Adopted Children Register relates];]

[And whereas the name or names and surname stated in the application as those by which the child is to be known are _____ ;]

It is directed that the Chief Registrar shall make in the Adopted Children Register an entry in the form specified by regulations made by the Clerk of the Rolls recording the particulars set out in this order;

[And it is further directed that the aforesaid entry in the Register of Births/Adopted Children Register be marked with the words "adopted"/"readopted"/"proposed foreign adoption"/"proposed foreign readoption"].

FORM 7

Originating Application for the Annulment or Revocation of an Adoption

[Heading as in Form 1]

[I] [We] apply for an order —

1. That the adoption which was authorised on the *[date]* by which [and
] [was] [were] authorised to adopt
be [annulled] [revoked].
2. That the leave of the court be granted for the purpose of making this application out of time.]
- 3 That the costs of this application be provided for.

Dated

Signature of [advocate for] applicant[s]

Notes

1. This form is for use when the adoption is to be revoked under section 40(1) or annulled under section 41(1) of the Adoption Act 1984. An application may not be made unless either the adopter or both adopters, as the case may be, or the adopted person habitually resides in the Isle of Man immediately before the application is made.
2. The application must state the full names by which the adopted person has been known since the adoption.
3. Except with the leave of the court, an application to annul an adoption may not be made later than 2 years after the date of the adoption to which it relates.

FORM 8

Originating Application for direction under section 29(3A) of the Adoption Act 1984

[Heading as in Form 1]

[I] [We] apply for —

1. A direction that a Convention adoption which was authorised on
and by which [and
]

[was] [were] authorised to adopt —

(a) was not, under the law of the country in which the adoption was effected, a full adoption;

[(b) that the consents referred to in Articles 4(c) and (d) of the Convention have not been given for a full adoption; and]

[(b) that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention)); and]

(c) that it would be more favourable for the said if a
direction under section 29(3A) of the Adoption Act 1984 were given.

2. A direction that section 29(2) of the Adoption Act 1984 shall not apply to the said
[to the extent that]

3. An order that the costs of this application be provided for.

Dated

Signature of [advocate for] applicant[s]

Note

This form is for use if the applicant claims that the Convention adoption is not, under the law of the country that made the adoption, a full adoption; either that the consents required under Articles 4(c) and (d) of the Convention have not been given for a full adoption or that the UK is not the receiving State within the meaning of Article 2 of the Convention); and that it would be more favourable to the child if a direction was given under s.29(3A) of the Adoption Act 1984.

FORM 9

Direction under section 29(3A) of the Adoption Act 1984

[Heading as in Form 1]

Upon the application of _____ and upon hearing
[and upon reading the affidavit of _____]

Whereas the High Court is satisfied that —

1. The adoption of _____ was effected as a Convention adoption
on _____ in _____
2. Under the law of that country the adoption was not effected as a full adoption;
- [3. The consents referred to in Articles 4 (c) and (d) of the Convention have not been given for a full adoption.]
- [3. The United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention.)]
4. In all the circumstances it would be more favourable to the said
for a direction to be given under section 29(3A) of the Adoption Act 1984.

It is hereby directed that —

[Section 29(2) of the Adoption Act 1984 shall not apply to the said _____]

[Section 29(2) of the Adoption Act 1984 shall apply to the said _____ with
the following modifications: _____]

[And as regards costs it is ordered that
_____]

Dated _____

Note

This form is for use if the applicant claims that the Convention adoption is not, under the law of the country that made the adoption, a full adoption; either that the consents required under Articles 4(c) and (d) of the Convention have not been given for a full adoption or that the UK is not the receiving State within the meaning of Article 2 of the Convention); and that it would be more favourable to the child if a direction was given under s.29(3A) of the Adoption Act 1984.

FORM 10

Originating Application for an Order that an Overseas Adoption or a Determination Cease to be Valid or that a Determination has been Affected by a Subsequent Determination

[Heading as in Form 1]

[I] [We] apply for —

1. An order that an overseas adoption which was authorised on the
and by which [and] [was]
[were]
authorised to adopt do cease to be valid in the Isle of Man.

2. An order that a determination made by an authority of a specified country to authorise or review the authorisation of an adoption order made under any enactment in force in a specified country and corresponding to sections 1(1) and 6 of the Adoption Act 1984) do cease to be valid in the Isle of Man.

3. An order that a determination made by an authority of a specified country to give or review a decision revoking or annulling an order made under any enactment in force in a specified country and corresponding to sections 1(1) and 6 of the Adoption Act 1984 do cease to be valid in the Isle of Man.

4. A decision as to the extent, if any, to which a determination mentioned in paragraph 2 or 3 above has been affected by a subsequent determination.

5. An order that the costs of this application be provided for.

Dated

Signature of [advocate for] applicant[s]

Notes

1. This form is principally for use if the applicant claims that the adoption or determination is contrary to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case. The applicant should delete the paragraphs which are not relevant.

2. An overseas adoption is one occurring in a place, under the law of that place, listed in the Schedule to the Adoption (Overseas Adoptions) Order 1985 (GC 278/85). A specified country means one of the countries listed in that Schedule.

FORM 11

Affidavit in Support of Application under section 40 or 41 of the Adoption Act 1984

[Heading as in Form 1]

[I] [We] _____ of _____
[and _____ of _____]
_____]

hereby make oath and say that the particulars set out in this affidavit are true.

1. Name of (first) adopter in full
Address

2. Name of second adopter in full
Address

3. Name of adopted person in full

4. The said _____ [and the said _____]
habitually reside[s] in the Isle of Man.

5. The adopted person — _____ is of the _____ sex
_____ is a national of _____
and was born at _____
on _____

6. On the _____ the said _____
[and _____] [was] [were] authorised to adopt the said
by _____ at _____

and those persons are the persons to whom the certified copy of an entry in a public register [or other evidence of adoption] which is exhibited to this affidavit relates.

7. At the time at which the adoption was authorised the said _____
was a national of _____ and resided in _____
[the said _____ was a national of _____
and resided in _____] and the adopted person was a national of _____
and resided in _____

(For other applications details of the marriage or, as appropriate, of the determination or determinations should be given and any necessary documentary evidence relating thereto supplied.)

8. A statement of the facts is exhibited to this affidavit.

Sworn, etc.

This affidavit is filed on behalf of the applicant[s].

Notes

Paragraph 3. Enter the name(s) by which the adopted person has been known since the adoption.

Paragraph 4. This paragraph is not required for applications made under section 41(2) of the Adoption Act 1984. Where this paragraph is required, no application may be made to the court unless the adopter or, as the case may be, both adopters or the adopted person habitually reside in the Isle of Man immediately before the application is made. Therefore, the name(s) of either the adopter(s) or the adopted person should be entered.

Paragraph 6. Enter the description and the full address of the authority which authorised the adoption. Evidence of the adoption may be given either by a certified copy of an entry in a public register relating to adoptions or by a certificate that the adoption has been effected signed by a person who is authorised by the law of the country concerned to do so.

Paragraph 7. This paragraph should be completed where the application is made under section 41(1) of the Adoption Act 1984. Enter the name of the first adopter and of the second adopter, if applicable.

Paragraph 8. A statement of facts is not required for an application to revoke a convention adoption under section 41(1) of the Adoption Act 1984. Expert evidence as to notified provisions may be necessary. In that or any other case where the applicant intends to rely on any provision of foreign law relating to adoption, any accompanying affidavit thereon must be sworn by a person who is suitably qualified on account of his knowledge or experience to give evidence as to the law concerned.

Rule 5(4)(b).

SCHEDULE 2

REPORTS ON THE HEALTH OF THE CHILD AND OF THE APPLICANT(S)

This information is required for reports on the health of a child and of his prospective adopter(s). Its purpose is to build up a full picture of their health history and current state of health, including strengths and weaknesses. This will enable the Department's medical adviser to base his advice to the court on the fullest possible information, when commenting on the health implications of the proposed adoption. The reports made by the examining doctor should cover, as far as practicable, the following matters.

1. The Child

Name, date of birth, sex, weight and height.

A. A health history of each natural parent, so far as is possible, including:—

- (i) name, date of birth, sex, weight and height;
- (ii) a family health history, covering the parents, the brothers and sisters and the other children of the natural parent, with details of any serious physical or mental illness and inherited and congenital disease;
- (iii) past health history, including details of any serious physical or mental illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given;
- (iv) a full obstetric history of the mother, including any problems in the ante-natal, labour and post-natal periods, with the results of any tests carried out during or immediately after pregnancy;
- (v) details of any present illness including treatment and prognosis;
- (vi) any other relevant information which might assist the medical adviser; and
- (vii) the name and address of any doctor(s) who might be able to provide further information about any of the above matters.

B. A neo-natal report on the child, including:—

- (i) details of the birth, and any complications;
- (ii) results of a physical examination and screening tests;
- (iii) details of any treatment given;
- (iv) details of any problem in management and feeding;
- (v) any other relevant information which might assist the medical adviser; and
- (vi) the name and address of any doctor(s) who might be able to provide further information about any of the above matters.

C. A full health history and examination of the child, including:—

- (i) details of any serious illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given;
- (ii) details and dates of immunisations;
- (iii) a physical and developmental assessment according to age, including an assessment of vision and hearing and of neurological, speech and language development and any evidence of emotional disorder;
- (iv) for a child over five years of age, the school health history (if available);
- (v) any other relevant information which might assist the medical adviser; and
- (vi) the name and address of any doctor(s) who might be able to provide further information about any of the above matters.

D. The signature, name, address and qualifications of the registered medical practitioner who prepared the report, and the date of the report and of the examinations carried out.

2. The Applicant

(If there is more than one applicant, a report on each applicant should be supplied covering all the matters listed below.)

A.

- (i) name, date of birth, sex, weight and height;
- (ii) a family health history, covering the parents, the brothers and sisters and the children of the applicant, with details of any serious physical or mental illness and inherited and congenital disease;
- (iii) marital history, including (if applicable) reasons for inability to have children;
- (iv) past health history, including details of any serious physical or mental illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given;
- (v) obstetric history (if applicable);
- (vi) details of any present illness, including treatment and prognosis;
- (vii) a full medical examination;
- (viii) details of any daily consumption of alcohol, tobacco and habit-forming drugs;
- (ix) any other relevant information which might assist the medical adviser; and
- (x) the name and address of any doctor(s) who might be able to provide further information about any of the above matters.

B. The signature, name, address and qualifications of the registered medical practitioner who prepared the report, and the date of the report and of the examinations carried out.

Rule 11(1) & (2).

SCHEDULE 3

MATTERS TO BE COVERED IN REPORTS SUPPLIED UNDER RULE 11(1) OR (2)

So far as is practicable, the report supplied by the adoption agency or, in the case of a report supplied under rule 11(2), the Department shall include all the following particulars:-

1. The Child
 - (a) Name, sex, date and place of birth and address;
 - (b) whether legitimate or illegitimate at birth and, if illegitimate, whether subsequently legitimated;
 - (c) nationality;
 - (d) physical description;
 - (e) personality and social development;
 - (f) religion, including details of baptism, confirmation or equivalent ceremonies;
 - (g) details of any wardship proceedings and of any court orders or resolutions relating to parental responsibility in respect of the child or to his custody, residence and maintenance;
 - (h) details of any brothers and sisters, including dates of birth, arrangements in respect of care and custody and whether any brother or sister is the subject of a parallel application;
 - (i) extent of access to members of the child's natural family and, if the child is illegitimate, his father, and in each case the nature of the relationship enjoyed;
 - (j) if the child has been in the care of the Department, details (including dates) of any placements with foster parents, or other arrangements in respect of the care of the child, including particulars of the persons with whom the child has had his home and observations on the care provided;
 - (k) date and circumstances of placement with prospective adopter and, where a Convention adoption is proposed, details of the arrangements which were made for the transfer of the child to the Island and that they were in accordance with regulation 11(10) of the Convention Regulations;
 - (l) names, addresses and types of schools attended, with dates, and educational attainments;
 - (m) any special needs in relation to the child's health (whether physical or mental) and his emotional and behavioural development and whether a report under section 19 of the Education Act 2001 is in force in respect of him;
 - (n) what, if any, rights to or interest in property or any claim to damages, under the Fatal Accidents Act 1981 or otherwise, the child stands to retain or lose if adopted;
 - (o) wishes and feelings in relation to adoption and the application, including any wishes in respect of religious and cultural upbringing; and
 - (p) any other relevant information which might assist the court.
2. Each Natural Parent, including where appropriate the father of an illegitimate child
 - (a) Name, date and place of birth and address;
 - (b) marital status and date and place of marriage (if any);
 - (c) past and present relationship (if any) with the other natural parent, including comments on its stability;
 - (d) physical description;
 - (e) personality;
 - (f) religion;
 - (g) educational attainments;

- (h) past and present occupations and interests;
- (i) so far as available, names and brief details of the personal circumstances of the parents and any brothers and sisters of the natural parent, with their ages or ages at death;
- (j) wishes and feelings in relation to adoption and the application, including any wishes in respect of the child's religious and cultural upbringing;
- (k) reasons why any of the above information is unavailable; and
- (l) any other relevant information which might assist the court.

3. Guardian(s)

Give the details required under paragraph 2(a), (f), (j) and (i).

4. Prospective Adopter(s)

- (a) Name, date and place of birth and address;
- (b) relationship (if any) to the child;
- (c) marital status, date and place of marriage (if any) and comments on stability of relationship;
- (d) details of any previous marriage;
- (e) if a parent and stepparent are applying the reasons why they prefer adoption to an order relating to the custody of the child;
- (f) if a natural parent is applying alone, the reasons for the exclusion of the other parent.
- (g) if a married person is applying alone, the reasons for this;
- (h) physical description;
- (i) personality;
- (j) religion, and whether willing to follow any wishes of the child or his parents or guardian in respect of the child's religious and cultural upbringing;
- (k) educational attainments;
- (l) past and present occupations and interest;
- (m) particulars of the home and living conditions (and particulars of any home where the prospective adopter proposed to live with the child, if different);
- (n) details of income and comments on the living standards of the household.
- (o) details of other members of the household (including any children of the prospective adopter even if not resident in the household);
- (p) details of the parents and any brothers or sisters of the prospective adopter, with their ages or ages at death;
- (q) attitudes to the proposed adoption of such other members of the prospective adopter's household and family as the adoption agency or, as the case may be, the local authority considers appropriate;
- (r) previous experience of caring for children as stepparent, foster parent, childminder or prospective adopter and assessment of ability in this respect, together where appropriate with assessment of ability in bringing up the prospective adopter's own children;
- (s) reasons for wishing to adopt the child and extent of understanding of the nature and effect of adoption;
- (t) any hopes and expectations for the child's future;
- (u) assessment of ability to bring up the child throughout his childhood;
- (v) details of any adoption allowance payable;
- (w) confirmation that any referees have been interviewed, with a report of their views and opinion of the weight to be placed thereon; and

- (x) any other relevant information which might assist the court.
- 5. Actions of the adoption agency or Department supplying the report
 - (a) Reports under rule 11(1):
 - (i) brief account of the agency's actions in the case, with particulars and dates of all written information and notices given to the child, his natural parents and the prospective adopter;
 - (ii) details of alternatives to adoption considered;
 - (iii) reasons for considering that adoption would be in the child's best interests (with date of relevant decision); and
 - (iv) reasons for considering that the prospective adopter would be suitable to be an adoptive parent and that he would be suitable for this child (with dates of relevant decisions) or, if the child has not yet been placed for adoption, reasons for considering that he is likely to be so placed.

OR

- (b) Reports under rule 11(2):
 - (i) confirmation that notice was given under section 17 of the Act, with the date of that notice;
 - (ii) brief account of the Department 's actions in the case; and
 - (iii) account of investigations whether child was placed in contravention of section 16 of the Act.

6. Generally

- (a) Whether any respondent appears to be under the age of majority or under a mental disability; and
- (b) whether, in the opinion of the body supplying the report, any other person should be made a respondent (for example, a person claiming to be the father of an illegitimate child, a spouse or ex-spouse of a natural parent, a relative of a deceased parent, or a person with any of the parental rights and duties).

7. Further information to be provided in proceedings relating to a Convention adoption/foreign adoption

- (a) Where the Island is the country of origin, confirmation that either —
 - (i) each parent or guardian of the child freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants), or
 - (ii) there is in force in respect of the child an order under section 18 of the Adoption Act 1976 (an Act of Parliament), section 18 of the Adoption (Scotland) Act 1978 (an Act of Parliament) or article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987;
- (b) Where the Island is the country of origin, confirmation that, after possibilities for placement of the child within the Island have been given due consideration, an intercountry adoption is in the child's best interest;
- (c) Confirmation that the requirements of rule 17 and, in the case of a Convention adoption, the rule 25 have been complied with.
- (d) For a Convention adoption, where the Island is either the country of origin or the receiving country, confirmation that the Department of Health and Social Security and the Central Authority of the other country have agreed that the adoption may proceed, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving country. The documents supplied by the Central Authority of the country of origin should be attached to the report together with a translation if necessary.

8. Conclusions

(This part of the report should contain more than a simple synopsis of the information above. As far as possible, the court should be given a fuller picture of the child, his natural parents and, where appropriate, the prospective adopter.)

- (a) Except where the applicant or one of them is a parent of the child, a summary by the medical adviser to the body supplying the report, of the health history and state of health of the child, his natural parents and, if appropriate, the prospective adopter, with comments on the implications for the order sought and on how any special health needs of the child might be met;
- (b) opinion on whether making the order sought would be in the child's best long-term interests, and on how any special emotional, behavioural and educational needs of the child might be met;
- (c) opinion on the effect on the child's natural parents of making the order sought;
- (d) if the child has been placed for adoption, opinion on the likelihood of full integration of the child into the household, family and community of the prospective adopter, and on whether the proposed adoption would be in the best long-term interests of the prospective adopter;
- (e) opinion, if appropriate, on the relative merits of adoption and custody; and
- (f) final conclusions and recommendations whether the order sought should be made (and, if not, alternative proposals).

Rule 24(2)(b).

SCHEDULE 4

ADDITIONAL INFORMATION TO BE INCLUDED IN FORM 1 IN THE CASE OF A
CONVENTION ADOPTION

21 Convention adoption

[Where the Isle of Man is the receiving country —

The Child

- (i) has not attained the age of 18 years at the date of the application; and
- (ii) was habitually resident in [*country*] which is a Convention country outside the British Islands on the date on which the Article 17(c) agreement was made.

The Applicants

- (iii) Both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) have attained the age of 21 years and have been habitually resident in the British Islands for a period of not less than one year ending with the date of the application; and
- (iv) [Both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) are British citizens by virtue of the British Nationality Act 1981] [Whereas [*name of applicant(s)*] is/are not a British citizen by virtue of the British Nationality Act 1981, the Home Office has confirmed that the child is authorised to enter and reside permanently in the Isle of Man .]]

OR

[Where the Isle of Man is the country of origin —

The Child

- (i) The child has not attained the age of 18 years at the date of the application;
- (ii) either each parent or guardian of the child freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants), or the child is free for adoption by virtue of an order made under section 18 of the 1976 Act, section 18 of the Adoption (Scotland) Act 1978, or Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987;
- (iii) the child is habitually resident in [*territory*] which is part of the British Islands on the date of the application.

The Applicants

Both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) have attained the age of 21 years and are habitually resident in [*country*] which is a Convention country outside the British Islands on the date of the application.]

Notes

Paragraph 21. The report on the child prepared by the Central Authority of the country of origin should be exhibited. In sub-paragraph (iv) delete the words in square brackets which do not apply. Where one of the applicants is not a British citizen by virtue of the British Nationality Act 1981, notice of confirmation from the Home Office that the child is authorised to enter and reside permanently in the Isle of Man should be exhibited.

MADE 1st April 2003

J. M. Kerruish

Her Majesty's First Deemster and Clerk of the Rolls

David Doyle

Second Deemster

EXPLANATORY NOTE

(This Note is not part of the Rules)

These Rules make provision for adoption proceedings in the High Court and similar proceedings under the Adoption Act 1984. They replace the Adoption Rules 1985, and make new provision (in Part 4) for Convention adoptions under the 1993 Hague Convention on Protection of Children and Co-operation in respect of intercountry Adoption (Cm 2691).