ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER A35

ADOPTION OF CHILDREN ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—
Act 1/2018, in force 30 April 2018

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ADOPTION OF CHILDREN ACT

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ADOPTION OF CHILDREN ACT

Interpretation

1. In this Act—

"adopted child" means an infant authorised to be adopted under this Act;

"adopter" is a person authorised under this Act to adopt an infant;

"adoption order" has the meaning assigned in section 2(1);

"Court" means the High Court;

"infant" means a person under the age of 18 years.

Power to make adoption orders

2. (1) Upon an application in the prescribed manner by any person desirous of being authorised to adopt an infant who has never been married, the Court may, subject to the provisions of this Act, make an order (in this Act referred to as an "adoption order") authorising the applicant to adopt that infant.

(2) A person so authorised to adopt the infant and an infant authorised to be adopted are in this Act referred to as an "adopter" and an "adopted child" respectively, and "infant" means a person under the age of 18 years.

(3) Where an application for an adoption order is made by 2 spouses jointly, the Court may make the order authorising the 2 spouses jointly to adopt, but save as aforesaid no adoption order shall be made authorising more than one person to adopt an infant.

Restrictions on making adoption orders

3. (1) An adoption order shall not be made in any case where—

(a) the applicant is under the age of 25 years; or

(b) the applicant is less than 21 years older than the infant in respect of whom the application is made;

but it shall be lawful for the Court, if it thinks fit, to make an order—

(c) notwithstanding that the applicant is less than 25 years of age, if the applicant is the mother of the infant; or

(d) notwithstanding that the applicant is less than 21 years older than the infant, if the applicant and the infant are within the prohibited degrees of consanguinity, or if the application is made by or on behalf of 2 spouses jointly and the wife is the mother of the infant or the husband is the putative father of the infant.

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(2) An adoption order shall not be made in any case where the sole applicant is a male and the infant in respect of whom the application is made is a female unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

(3) An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the infant in respect of whom the application is made or who has the actual custody of the infant or who is liable to contribute to the support of the infant but the Court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the infant or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the infant, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the Court and in all the circumstances of the case, to be dispensed with.

(4) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them, but the Court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving such consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(5) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in Anguilla, or in respect of any infant who is not a British subject and who is not resident in Anguilla.

Matters with respect to which Court to be satisfied

4. The Court, before making an adoption order, shall be satisfied—

(a) that every person whose consent is necessary under this Act and whose consent is not dispensed with has consented to and understands the nature and effect of the adoption order for which application is made, and in particular, in the case of any parent, understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights;

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

(c) that the applicant has not received or agreed to receive, and that no person has made or given, or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the Court may sanction.

Terms and conditions of order

5. The Court in an adoption order may impose such terms and conditions as the Court may think fit and in particular may require the adopter by bond or otherwise to make for the adopted child such provision (if any) as in the opinion of the Court is just and expedient.

Effect of adoption order

6. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted child, in relation to the future custody, maintenance and education of the adopted child, including all rights to appoint a guardian or to

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consent or give notice of dissent to marriage shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child were a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.

(2) In any case where 2 spouses are the adopters such spouses shall, in respect of the matters referred to in subsection (1) and for the purpose of the jurisdiction of the Court to make orders as to the custody and maintenance of and right of access to children, stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother respectively.

(3) An adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition, whether occurring or made before or after the making of the adoption order, or confer on the adopted child any right to or interest in property as a child of the adopter, and the expressions "child", "children" and "issue" where used in any disposition whether made before or after the making of an adoption order, shall not, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child.

(4) For the purposes of this section "disposition" means an assurance of any interest in property by any instrument whether *inter vivos* or by will including codicil.

(5) For the purposes of section 57 of the Friendly Societies Act, which limits the amount of money that a Friendly Society may pay for funeral expenses, and section 58 of that Act, which restricts the persons to whom money may be paid on the death of a child under the age of 10 years, the adopter is deemed to be the parent of the child, and where before the adoption order was made any insurance had been effected by the natural parent of the child, the rights and liabilities under the policy shall by virtue of the adoption order be transferred to the adopter, and the adopter shall, for the purposes of that enactment, be treated as the person who took out the policy.

Power to make interim orders

7. (1) Upon any application for an adoption order, the Court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Act) giving the custody of the infant to the applicant for a period not exceeding 2 years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the infant and otherwise as the Court may think fit.

(2) All such consents as are required to an adoption order shall be necessary to an interim order but subject to a like power on the part of the Court to dispense with any such consent.

Power to make subsequent order in respect of infant already subject to an order

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

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Jurisdiction and procedure

9. (1) The Court having jurisdiction to make adoption orders under this Act shall be the High Court.

(2) Rules in regard to any matter to be prescribed under this Act and directing the manner in which applications to the Court are to be made and dealing generally with all matters of procedure and incidental matters arising out of this Act and for carrying this Act into effect shall be made by the Chief Justice.

(3) Such rules may provide for applications for adoption orders being heard and determined otherwise than in open Court.

(4) For the purposes of any application under this Act and subject to any rules under this section, the Court shall appoint some person or body to act as guardian *ad litem* of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the Court.

Restriction on payments

10. It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the Court to receive any payment or other reward in consideration of the adoption of any infant under this Act or for any person to make or give or agree to make or give to any adopter or to any parent or guardian any such payment or reward.

Adopted Children Register

11. (1) The Registrar-General shall establish and maintain at his office a register to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.

(2) The register may be wholly or partly in—

(a) the form of a computer database;

(b) documentary form; or

(c) any other form the Governor in Council considers appropriate.

(Act 1/2018, s. 2(a))

(3) Every adoption order shall contain a direction to the Registrar-General to make in the Adopted Children Register an entry recording the adoption in the form set out in Schedule 1.

(Act 1/2018, s. 2(b))

(4) If upon any application for an adoption order, there is proved to the satisfaction of the Court—

(a) the date of the birth of the infant; and

(b) the identity of the infant with a child to which any entry or entries in the Register of Births relates;

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the adoption order shall contain a further direction to the Registrar-General to cause such birth, entry or entries in the Register of Births, to be marked with the word "Adopted", and to include in the entry in the Adopted Children Register recording the adoption the date stated in the order of the adopted child's birth in the manner indicated in Schedule 1.

(Act 1/2018, s. 2(c))

(5) The prescribed officer of the Court shall cause every adoption order to be communicated in the prescribed manner to the Registrar-General, and upon receipt of such communication the Registrar-General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Register of Births with the word "Adopted", and in regard to making the appropriate entry in the Adopted Children Register.

(6) A certified copy of any entry in the Adopted Children Register if purporting to be sealed or stamped with the seal of the Registrar-General's Office shall, without any further or other proof of such entry—

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as evidence of the adoption to which the same relates; and

(b) where the entry contains a record of the date of the birth of the adopted child, be received not only as evidence of the adoption to which the same relates but also as evidence of the date of the birth of the adopted child to which the same relates in all respects as though the same were a certified copy of an entry in the Register of Births.

(7) The Registrar-General shall cause an index of the Adopted Children Register to be made and kept in his office, and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register in all respects upon, and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the laws for the time being in force in Anguilla in respect of searches in other indexes kept in such office, and in respect of the supply from such office of certified copies of entries in the Registers of Births and Deaths.

Certificate of Adoption

12. (1) A certificate of adoption shall be issued in the prescribed form set out in Schedule 2.

(2) The fee as prescribed in the Adoption of Children (Fees) Regulations, 2018 shall be paid on issuance of a certificate referred to in subsection (1).

(Act 1/2018, s. 3)

Fees to be prescribed by Regulation

13. The Governor in Council may by regulation prescribe the fees payable under this Act.

(Act 1/2018, s. 4)

Citation

14. This Act may be cited as the Adoption of Children Act, Revised Statutes of Anguilla, Chapter A35.

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SCHEDULE 1

(Section 11(3) and (4))

ADOPTED CHILDREN REGISTER

No. of Entry	Date of Entry	Name of Adopted Child (Enter Name as stated in Adoption Order)	Sex of Adopted Child (Enter Sex as stated in Adoption Order)	Name and Surname, Address and Occupation of Adopter or Adopters (Enter Name, Address and Occupation as stated in Adoption Order)	Date of Birth of Child (Enter date of Birth (if any) directed by the Adoption Order to be entered, but otherwise no entry)	Date of Adoption Order (Entry to be made as appearing in the Adoption Order)	Signature of Officer deputed by Registrar-General to attest the Entry
1	2	3	4	5	6	7	8

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SCHEDULE 2

(Section 12(1))

CERTIFICATE OF ADOPTION


ANGUILLA

Adoption of Children Act
Revised Statutes of Anguilla
Chapter A35

CERTIFICATE OF ADOPTION

Adoption Record Number

CHILD Name
Sex
Date of Order
Date of Birth

MOTHER Surname
Name
Occupation
Address

FATHER Surname
Name
Occupation
Address

REGISTRATION Name of Registrar General
Date of Entry

This is to certify that the above particulars are a true copy of the entry in the Adopted Children Register No. Page No. of the person under reference

Extracted this

Judicial Department Anguilla

Registrar General
Registry of Births and Deaths and Marriages

Certified copy not valid unless the raised Seal of the Registry of Births, Deaths and Marriages is affixed hereon

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

REGISTRAR BIRTHS DEATHS & MARRIAGE ANGUILLA WEST INDIES

(Act 1 of 2018, s. 5)

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