ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

ADOPTION OF CHILDREN ACT
R.S.A. c. A35

Showing the Law as at 15 December 2000

Regulation	Citation	Page
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Revised Regulations of Anguilla: A35-1

ADOPTION OF CHILDREN ACT (R.S.A. c. A35)

ADOPTION OF CHILDREN RULES

Note: These Regulations are enabled under section 9 of the Adoption of Children Act, R.S.A. c. A35.

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Interpretation

1. In these Rules—

"Act" means the Adoption of Children Act;

"applicant" means the person or persons making an application for an adoption order under the Act;

"Court" means the High Court.

Application for adoption order

2. Every application for an adoption order shall be made by originating summons to the Court and shall be entitled "In the Matter of the Infant" and "In the Matter of the Adopted of Children Act" and there shall be presented to the Court the following—

(a) a written statement in duplicate in Form 1 in the Schedule;

(b) a statement of particulars in Form 2 in the Schedule;

(c) written consent in Form 3 in the Schedule; and

(d) a statement with respect to the identity of the child in Form 4 in the Schedule.

Where previous application made

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

Respondents

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

Hearing and service of notice

5. (1) The Court shall fix a time for the hearing of the application and shall issue a notice in Form 5 in the Schedule addressed to the respondents and shall direct the applicant to cause such notice to be served on each of them, but, where the child is in the actual custody of any person, such notice need not be served on the child, but may require such person to produce the child to the Court.

(2) Any notice under these Rules shall be served upon any respondent to whom it is addressed either by delivering a copy to him personally or by leaving a copy with some person for him at his last known or usual place of abode or by sending a copy by registered post to him at his last known or usual place of abode, whether such place of abode is in Anguilla or elsewhere, but, where the respondent is a body, the copy shall be sent to the registered office of that body, or if there is no registered office, to the place where the body transacts or carries on its business.

Hearing *in camera*

6. Every application under the Act shall be heard and determined *in camera.*

Attendance, and waiver of attendance

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

(2) The Court may waive the requirement under subsection (1)—

(a) in the case of the child, if satisfied that special circumstances exist which render it inexpedient or unnecessary that the child shall personally attend before the Court; or

(b) in the case of any other person, if satisfied that he cannot be found or is incapable of giving consent or that in view of any other special circumstances it is right that this requirement should be waived.

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

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

Separate examination

8. Subject to the provisions of this section and of sections 7(4) and 11(3)(b), the Court may direct that the applicant or any respondent shall attend and be heard and examined separately and apart from the other parties to the application, but no such direction shall be given unless—

(a) the Court is satisfied that the giving of the direction is desirable and will not prejudice the determination of any question involved; and

(b) the consent of the applicant or respondent to whom it is proposed that the direction shall be given and of all other parties to the application is first obtained.

Notice to absent respondent

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

Drawing up of orders

10. (1) An adoption order or an interim order shall be drawn up in Form 6 or Form 7 in the Schedule, as the case may require.

(2) No copy or duplicate of such order shall be given to or served upon any person other than the applicant and the Registrar except by special direction of the Court.

(3) An interim order shall include such provision for the maintenance and education of the child and such terms as regards the exercise of supervision by some fit and proper person appointed by the Court.

Further hearing after interim order

11. (1) Where the determination of an application has been postponed and an interim order has been made, the applicant shall at least 2 months before the expiration of the order apply to the Court to proceed with the determination of the application and it shall thereupon be lawful for the Court to fix a time for the further

hearing of the application and to issue a notice in Form 8 in the Schedule, addressed to the respondents and to direct the applicant to cause such notice to be served on each of them but, where the child is in the actual custody of the applicant, the notice need not be served on the child.

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

(3) The Court may waive the requirement under subsection (2) in the case of the child if satisfied that special circumstances exist which render it expedient or unnecessary that the child shall personally attend before the Court.

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

Costs

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

Copy of adoption order to be sent to Registrar-General

13. (1) Upon the making of an adoption order, the Registrar of the Court shall within 7 days from the date thereof send a duplicate or a certified copy of the order to the Registrar-General of Anguilla and shall also, subject to the payment by the applicant of any fee required by law, deliver or send a duplicate or certified copy to the applicant.

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

Application of Rules of Eastern Caribbean Supreme Court

14. Subject these Rules, the Rules of the Eastern Caribbean Supreme Court shall apply in respect of all proceedings under the Act.

Citation

15. These Regulations may be cited as the Adoption of Children Rules, Revised Regulations of Anguilla A35-1.

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SCHEDULE

FORMS

FORM 1

(Section 2(a))

APPLICATION FOR AN ADOPTION ORDER

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

1. I am (We are) desirous of being authorised under the provisions of the Adoption of Children Act, to adopt ....…......…………........………………………, a child of the .... sex, resident at ……...…...….. in ….................................…………............................. (hereinafter called the “child”).

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

3. I am married to ……………………………………………………………….. whose written consent to the making of the order is appended hereto.

(I am unmarried.)

(We are married to each other.)

4. I am (We are) domiciled in ……….…………………………………………..………… .

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

6. I (We) [have made no previous application under the Act to the Court in respect of the said child] (or) [have made a previous application to the Court in respect of the said child which was dealt with on the ....… day of …..……...........……................ as follows, viz:— ....…………......................……..].

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

In Witness Whereof I (we) have signed this statement on the .... day of ....………......., 20 ....

………………………………

Signature of Applicant(s)

FORM 2

(Section 2(b))

PARTICULARS TO BE FURNISHED WITH APPLICATION FOR ADOPTION ORDER

Name in full ……

Address ……

Occupation ……

Date of birth ……

Age last birthday ……

Relationship (if any) to the child ……

These particulars are to be furnished by both male and female applicants, if the application is being made by 2 spouses.

———————

FORM 3

(Section 2(c))

CONSENT OF PARENT OR GUARDIAN OF CHILD

Consent to an Adoption Order in respect of a child formerly named …… .

An application to the Court having been made for an order authorizing the adoption, under the provisions of the Adoption of Children Act, of the said child.

I (We) the undersigned ……..……. of ……..…….. being—

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

Hereby state that I (we) understand the nature and effect of the adoption order for which application is made (and that in particular I (we) understand that the effect of the order will be permanently to deprive me (us) of my (our) parental rights) and I (we) hereby consent to the making of an adoption order in favour of the applicant.

In Witness Whereof I (we) have signed this consent on the …….. day of ....…..., 20..... .

(Signature) .....
(Signature) .....

Signed in the presence of:

(Signature) .....
(Address) .....
(Description) .....
(Signature) .....
(Address) .....
(Description) .....

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

FORM 4

(Section 2(d))

STATEMENT BY APPLICANT OF IDENTITY OF CHILD NOW NAMED ……

1. I (We), being the applicant(s) herein, hereby certify that the child above-named is the child formerly known as …… .

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

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

4. The child is a British subject and has never married.

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

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

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

…….
Signature of Applicant(s)

Dated .....…….. the day of …….....…, 20..... .

** Delete whichever is not applicable.*

———————

FORM 5

(Section 5(1))

NOTICE OF AN APPLICATION FOR AN ADOPTION ORDER IN RESPECT OF A CHILD NAMED

[(1)] …….. **FORMERLY** [(2)] ……..…

To ....…….....……..…..... of ….....…….....….....……..... and .....……..…… of …….....…….....……. .

TAKE NOTICE—

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

(2) That the said application will be heard before the High Court sitting at ……..…… …….....……...……..……..... on the .....…..... day of .....……..…....., 20……. at the hour of ..... in the ..... noon, and that you are severally required to attend before the Court (and in the case of ..... to produce the said child before the Court).

Dated the .....… day of .....……., 20..... .

……

Registrar

[(1)] *Insert name or names by which the child is to be known.*

[(2)] *Delete where there is no change of name. Where there is change of name insert former names, including surname.*

[(3)] *Where the application is made by 2 spouses jointly the form should be modified.*

———————

FORM 6

(Section 10(1))

ADOPTION ORDER IN RESPECT OF CHILD NAMED

[(1)] …….. **FORMERLY** [(2)] ……..…

The ..……..... day of .....…..., 20..... .

Application has been made by .....…….……..... (hereinafter called the male applicant), a person not under the age of 25 years, by occupation .....…..... residing at .....……..…..... in Anguilla and domiciled in Anguilla (and by .....…..... his wife (hereinafter called the female applicant) being the mother of the child or a person not under the age of 25 years) that he (she) is (they are) desirous of being authorized under the Adoption of Children Act, to adopt [(3)] .....…..…….…..... a child of the ……..... sex, aged ..... years, resident at .....…….... in Anguilla, a British subject who has never been married, the child of .....……..... (and of .....……...……..... his wife (herein called the child)):

And the *male (and female) applicant(s) being (respectively) not less than 21 years older than the child:

*(And the male (and female) applicant(s) and the child being within the prohibited degrees of consanguinity):

*(And the male applicant being the putative father of the child (and the female applicant being the mother of the child)):

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

And the Court being satisfied that the statements made in the application are true:

*(And having sanctioned the following payment or reward, viz. …….....……..…. ……).

IT IS ORDERED that the applicant(s) be authorised to adopt the child:

(And as regards costs it is further ordered that …….....…….…. ……):

And it is directed that the Registrar-General shall make an entry recording this adoption in the Adopted Children Register in accordance with the particulars set out in the Schedule to the Act (and shall enter the date of birth of the child in Column 6 of the said Register as the ..... day of ....., 20.....).[(4)]

And it having been proved to the satisfaction of the Court that the child was born on the date last mentioned and is identical with ...…….....……. to whom an entry numbered ……..... and made on the ..... day of ….....…….…., ... in the Register of Births, it is further directed that the Registrar-General, in addition to making in the Adopted Children Register the entry of the date of birth directed above, shall cause the aforesaid entry in the Register of Births to be marked with the word “Adopted”.[(5)]

By the Court,

……..……..
Registrar

(1) *Insert name or names, including surname, by which the child is to be known.*

(2) *Delete where there is no change of name. Where there is change of name, insert former name including surname.*

(3) *Insert Christian name or names by which the child is to be known. The surname should not be stated here.*

(4) *Delete* (.....) *unless the date of birth has been established to the satisfaction of the Court whether by an entry in the Register of Births or otherwise.*

(5) *Where no entry relating to the child is found in the Register of Births this paragraph should be deleted.*

NOTE: An adoption order, or copy sent to the Registrar-General is required to be drawn up as required by the Court.

FORM 7

(Section 10(1))

INTERIM ORDER IN RESPECT OF CHILD NAMED

(1) ……………………………………….…. **FORMERLY** (2) ……………………………………….…

The .... day of ....….., 20............ .

Application has been made by ....………................. (hereinafter called the male applicant) a person not under the age of 25 years, by occupation ......……………... resident at ....……………….................. in Anguilla and domiciled in Anguilla (and by .... his wife* (hereinafter called the female applicant) being the mother of the child or a person not under the age of 25 years) that he (she) is (they are) desirous of being authorised under the Adoption of Children Act, to adopt (3) .... a child of the …............ sex, aged .... years, resident at ....…………………..……............................... in Anguilla, a British subject who has never been married, the child of ...………...........................………….............. (and of ....………...... his wife) (herein called the child):

*And the male (and female) applicant(s) being (respectively) not less than 21 years older than the child:

*(And the male (and female) applicant(s) and the child being within the prohibited degrees of consanguinity):

*(And the male applicant being the putative father of the child):

*(And the female applicant being the mother of the child):

And all consents required by the Act having been obtained and dispensed with:

And the Court being satisfied that the statements made in the application are true.

IT IS ORDERED that the determination of the application be postponed to the .... day of ...., 20............. . And it is further ordered that the custody of the child be given to the applicant(s) for a period not exceeding 2 years, viz., until the .... day of ...., 20 .... , by way of a probationary period upon the following terms, viz. ………...…………………..... ………………………………………………………………….. and that the applicant(s) shall at least 2 months before that date apply for a determination of the application.

(And as regards costs it is ordered that ....).

By the Court,

…………….………..
Registrar

(1) *Insert the name or names including surname by which the child is to be known.*

(2) *Delete where there is no change of name. Where there is change of name, insert former name including surname.*

(3) *Insert Christian name or names by which the child is to be known. The surname should not be stated here.*

* *Delete words not applicable.*

FORM 8

(Section 11(1))

NOTICE OF FURTHER HEARING OF AN APPLICATION FOR AN ADOPTION ORDER IN RESPECT OF A CHILD NAMED

[(1)] ……..… **FORMERLY**[(2)] ……..…

To ……..……..……..……..…..

of ……..……...…….

and to ……

of ….……..……..…..….

TAKE NOTICE—

(*a*) that an application was made by [(3)] .....…….....……. for an order under the Adoption of Children Act, authorizing him to adopt the said child, being a child of the ..... sex, then aged ..... years;

(*b*) that the determination of the said application was postponed to the ..... day of ....., 20..... , and an interim order was made by the Court on the ……... day of ....., 20…...… ;

(*c*) that the said application will be further heard before the Court sitting at ...……..... ..... on the ..... day of ....., 20..... , and that it is open to you to attend before the Court.

Dated this ..... day of …….....…, 20...……

……..……..
Registrar

[(1)] *Insert name or names, including surname by which the child is to be known.*

[(2)] *Delete where there is no change of name. Where there is change of name, insert former name, including surname.*

[(3)] *Where the application was made by 2 spouses jointly the form should be modified.*

———————