

# ADOPTION OF CHILDREN ACT

## (CHAPTER 4)

An Act to make provision for the adoption of infants.

29th December 1939

### **Short title.**

1. This Act may be cited as the Adoption of Children Act.

### **Interpretation.**

2. In this Act, unless the context otherwise requires —

"court" includes a judge;

"father" , in relation to an illegitimate infant, means the natural father;

"parent" , in relation to an illegitimate infant, does not include the natural father;

"Registrar" , in relation to any court, means the Registrar of that court.

### **Power to make adoption orders.**

3. —

(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 (referred to in this Act 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 referred to in this Act as an adopter and an adopted child respectively, and infant means a person under the age of 21 years.

(3) Where an application for an adoption order is made by two spouses jointly, the court may make the order authorising the two spouses jointly to adopt an infant.

(4) An adoption order may be made authorising the adoption of an infant by the mother or father of the infant, either alone or jointly with her or his spouse.

(5) Except as provided in this section, no adoption order shall be made authorising more than one person to adopt an infant.

### **Restrictions on making adoption orders.**

4. —

(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.

(2) Notwithstanding subsection (1), it shall be lawful for the court, if it thinks fit, to make an adoption order —

(a) where the applicant is under the age of 25 years and less than 21 years older than the infant if —

(i) the applicant and the infant are within the prohibited degrees of consanguinity;

or

(ii) in other special circumstances which justify as an exceptional measure the making of an adoption order where the applicant and the infant are not within the prohibited degrees of consanguinity;

(b) in the case of an application by two spouses jointly where one of the spouses and the infant are within the prohibited degrees of consanguinity, notwithstanding that the other spouse is under the age of 25 years and less than 21 years older than the infant; and

(c) in the case of an application by two spouses jointly where neither spouse is within the prohibited degrees of consanguinity with the infant, notwithstanding that one or both the spouses are less than 21 years older than the infant.

(3) 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.

(4) 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:

Provided that the court may dispense with any consent required by this subsection if the court is satisfied that the person whose consent is to be dispensed with —

(a) has abandoned, neglected, persistently ill-treated the infant or cannot be found and that reasonable notice of the application for an adoption order has been given to the parent or guardian where the parent or guardian can be found;

(b) is unfit by reason of any physical or mental incapacity to have the care and control of the infant, that the unfitness is likely to continue indefinitely and that reasonable notice of the application for an adoption order has been given to the parent or guardian; or

(c) ought, in the opinion of the court and in all the circumstances of the case to be dispensed with, notwithstanding that such person may have made suitable initial arrangements for the infant by placing the infant under the care of the authorities of a children's home, the protector under the Children and Young Persons Act or some other person.

(5) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them:

Provided that 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.

(6) An adoption order shall not be made in favour of any applicant who is not resident in Singapore or in respect of any infant who is not so resident.

(7) For the purpose of subsection (6), an infant shall be deemed not to be resident in Singapore

(a) if he is authorised or permitted to remain in Singapore by virtue of a visit pass, a student's pass or a special pass issued by the Controller of Immigration, irrespective of the number of occasions such a pass is issued to him or renewed; or

(b) if his presence in Singapore is unlawful under the provisions of the Immigration Act or the regulations made thereunder.

#### **Matters with respect to which court to be satisfied.**

**5.** 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.**

6. 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.**

7. --(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 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 was 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:

Provided that in any case where two spouses are the adopters, such spouses shall in respect of the matters aforesaid and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children stand to each other and to the 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.

(2)

(a) Where, at any time after the making of an adoption order, the adopter or the adopted person or any other person dies intestate in respect of any movable or immovable property, that property shall devolve in all respects as if the adopted person were the child of the adopter born in lawful wedlock and not the child of any other person.

(b) In any disposition of movable or immovable property made, whether by instrument inter vivos or by will (including codicil) after the date of an adoption order —

(i) any reference (whether express or implied) to the child or children of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to the adopted person;

(ii) any reference (whether express or implied) to the child or children of the adopted person's natural parents or either of them shall, unless the contrary intention appears, be construed as not being, or as not including, a reference to the adopted person; and

(iii) any reference (whether express or implied) to a person related to the adopted person in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him in that degree if he were the child of the adopter born in lawful wedlock and were not the child of any other person.

(3) Where an adopted child or the spouse or issue of an adopted child takes any interest in movable or immovable property under a disposition by the adopter or under any intestacy, or where an adopter takes any interest in movable or immovable property under a disposition by an adopted child or the spouse or issue of an adopted child, or under the intestacy of an adopted child or the spouse or issue of an adopted child, any estate or other duty which becomes leviable in respect thereof shall be payable at the same rate as if the adopted child had been a child born to the adopter in lawful wedlock.

(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 11 or 11A of the Civil Law Act, a person shall be deemed to be the parent or child of the person deceased notwithstanding that he was only related to him in consequence of adoption; and accordingly in deducing any relationship which under the

provisions of that section is included within the meaning of the expressions "parent" and "child" an adopted child shall be treated as being, or as having been, the legitimate offspring of his adopter.

(6) Notwithstanding anything in this section, trustees or personal representatives may convey or distribute any movable or immovable property to or among the persons entitled thereto without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein, and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

(7) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of this section in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order and in relation to any disposition of property made after that date.

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

(9) An adoption order shall not by itself affect the citizenship of the adopted child.

#### **Power to make interim orders.**

**8.** --(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 two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the 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.**

**9.** 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.

#### **Jurisdiction and procedure.**

**10.** --(1) The court having jurisdiction to make adoption orders under this Act shall be the High Court including the Registrar thereof or, at the option of the applicant but subject to any rules made under this section, a District 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 under section 80 of the Supreme Court of Judicature Act and section 69 of the Subordinate Courts Act.

Such rules may provide that all applications made under this Act be heard and determined otherwise than in open court.

(3) For the purpose of any application under this Act and subject to any rules made 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 safe-guarding the interests of the infant before the court.

**Restriction on payments.**

**11.** 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.

**Registration of adopted children.**

**12. –**

(1) Where an adoption order has been made, the Registrar of the court by which the adoption order was made shall forthwith send to the Registrar-General of Births and Deaths a notice in the form set out in the Schedule, setting out the following particulars so far as they are known to the court:

- (a) the full name of the child before the making of the adoption order;
- (b) the full name of the child conferred by the adoption order;
- (c) the date and place of birth of the child;
- (d) the birth certificate registration number or entry number of the last preceding adoption or re-registration number;
- (e) the sex of the child;
- (f) the names of the natural or last preceding adopting parents of the child;
- (g) the name or names and the occupation and address of the adopting parent or adopting parents;
- (h) the date and country of birth, race and dialect group, nationality and citizenship, and Singapore identity card number of the adopting parent or adopting parents;
- (i) the maiden name of the adopting mother if she is or has been married;
- (j) in the case of adoption by a single adopter, whether the adoptive parent wishes that the words “adoptive father” or “adoptive mother” as the case may require, appear on the face of any certified copy of the entry of birth of the child issued after the birth has been registered under this section;
- (k) the date of the adoption order and a description of the court by which it was made;
- (l) such other particulars as may be required by the Registrar-General.

(2)

- (a) Where the precise date of the infant's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined shall be specified in the order as the date of his birth.
- (b) Where the country of birth of the infant is not proved to the satisfaction of the court the particulars of that country may be omitted from the order, and from the entry in the register maintained by the Registrar-General.

(3) Upon receipt of the form referred to in subsection (1), the Registrar-General shall if the birth of the adopted child has been registered in Singapore cause the entry in the relevant register of births to be marked with the word “Adopted”. Particulars as to the birth of the child shall then be registered separately substituting the name conferred by the adoption for the name of the child prior to adoption, and recording the name, address and description of each adopting parent in substitution for the particulars as to the natural or last adopting parents.

(4) In any case where the birth of the adopted child has not been registered in Singapore, the Registrar-General, upon being satisfied as to the correctness of the information supplied to him as to the date and place of birth of the child, shall register particulars as to the birth of the child in accordance with the procedure in subsection (3).

(5) Where a copy of the entry as to the birth of any child to which this section relates is required for any purpose, the Registrar-General, subject to any regulations as to payment of fees as are prescribed, shall supply a copy of the last entry made pursuant to subsection (3) omitting in the copy the word "Adopted" that appears in the original or former entry.

(6) No person shall be permitted to inspect any such original or former entry, or to take a copy of such original or former entry unless that person has certified, and the Registrar-General is satisfied, that the particulars recorded in the original or former entry are material for the purpose for which the inspection is required.

(7) Where on 15th May 1972 an adoption order has already been made in respect of an infant, the Registrar-General shall upon application being made by either of the adopting parents, or in the event of both adopting parents being dead, by the adopted child register particulars as to the birth of the child in accordance with subsection (3) and upon registration, subsection (5) shall apply to any copy of an entry as to the birth of the adopted child.

(8) The copy of the entry as to the birth of the child supplied by the Registrar-General under subsection (5) shall have the same effect in law as a copy of any entry as to the birth of a child who is not adopted.

(9) Rules made by the Minister under the Registration of Births and Deaths Act may make provision as to the duties to be performed by Registrars, Supervising Deputy Registrars and Deputy Registrars in the administration of this Act.

(10) The Adopted Children Register maintained under section 11 repealed by the Adoption of Children (Amendment) Act 1972 shall cease to be maintained and no extracts therefrom shall be issued except by an order of court.

\*This Act came into operation on 15th May 1972.

(11) The Registrar-General shall keep such other registers and books, and make such entries therein as may be necessary to record and make traceable the connection between any entry in the Adopted Children Register previously maintained under section 11 repealed by the Adoption of Children (Amendment) Act 1972 and any entry in the registers of births made pursuant to this section, but the registers and books kept under this subsection shall not be, nor shall any index thereof be, open to public inspection or search nor except under an order of court shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

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