

CHAPTER 58

ADOPTION OF INFANTS

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ADOPTION OF INFANTS

Ordinances Nos. 25 of 1944, 14 of 1950, 10 of 1951, 9 of 1955, 23 of 1961, 37 of 1966.

AN ACT TO MAKE PROVISION FOR THE ADOPTION OF INFANTS AND FOR MATTERS CONNECTED THEREWITH

[1st May, 1945.]

Short title

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

Interpretation

2. In this Act, unless the context otherwise requires—
 - “court” means the court having jurisdiction to make adoption orders under this Act;
 - “father” in relation to an illegitimate child means the natural father;
 - “relative” in relation to an infant means a grand-parent, brother, sister, uncle or aunt, whether of the full blood, of the half blood or by affinity, and includes—

- (a) where an adoption order has been made in respect of the infant or any other person, any person who would be a relative of the infant within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock;
- (b) where the infant is illegitimate, the father of the infant and any other person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of its mother and father.

(Section substituted by 14 of 1950, s. 3.)

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 (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 twenty-one.

(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, but save as aforesaid no adoption order shall be made authorising more than one person to adopt an infant.

Legitimation: Revocation of adoption orders and cancellations in Register

4.—(1) Where—

- (a) any person adopted by his father or mother alone has subsequently become a legitimated person on the marriage of his father and mother; or
- (b) any person legitimated by virtue of the provisions of section 3 of the Legitimacy (Amendment) Ordinance, 1960, had been adopted by his father and mother before the 16th day of December, 1960,

No. 43 of 1960

the court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.

(2) Where an adoption order is revoked under this section the court shall give directions to the Registrar-General to cancel—

- (a) the entry in the Adopted Children Register relating to the adopted person; and
- (b) the marking with the word “adopted” of any entry relating to him in the Register of Births;

and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this section, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(3) The revocation of an adoption order under this section shall not affect the operation of sections 11 and 12 in relation to an intestacy which occurred, or a disposition which was made, before the revocation.

(Inserted by 23 of 1961, s. 2.)

Legitimation: Marking of entries on re-registration of births

5. Without prejudice to the provisions of section 4, where, after an entry in

the Register of Births has been marked with the word "adopted" the birth is re-registered under the Schedule to the Legitimacy Act (which provides for the re-registration of the birth of legitimated persons), the entry made on the re-registration shall be marked in the like manner. (Cap. 57)

(Inserted by 23 of 1961, s. 2)

Restrictions on making adoption orders

6.—(1) An adoption order shall not be made unless the applicant or, in the case of a joint application, one of the applicants—

- (a) has attained the age of twenty-five and is at least twenty-one years older than the infant in respect of whom the application is made; or
- (b) has attained the age of twenty-one and is a relative of the infant; or
- (c) is the mother or father of the infant.

(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 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.

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

(Section amended by 14 of 1950, s. 4)

Consent to adoption

7.—(1) 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, or who is liable by virtue of any order or agreement to contribute to the maintenance of the infant:

Provided that the court may dispense with any consent required by this subsection if it is satisfied—

- (a) in the case of a parent or guardian of the infant, that he has abandoned, neglected or persistently ill-treated the infant, or has made no contribution to its maintenance for a period in excess of five years;
- (b) in the case of a person liable as aforesaid to contribute to the maintenance of the infant, that he has persistently neglected or refused so to contribute;
- (c) in any case, that the person whose consent is required cannot be found, or is incapable of giving his consent or that his consent is unreasonably withheld.

(2) The consent of any person to the making of an adoption order in pursuance of an application may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the infant is to be brought up) without knowing the identity of the applicant for the order; and where consent so given by any person is subsequently withdrawn on the ground only that he does not know the identity of the applicant, his consent shall be deemed for the purposes of this section to be unreasonably withheld.

(3) Where any person whose consent to the making of an adoption order is required by this section does not attend in the proceedings for the purpose of giving it, a document signifying his consent to the making of such an order shall, if the person in whose favour the order is to be made is named or otherwise described in the document, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings; and where any such document is attested by a justice of the peace (or, if executed outside Fiji, by a person of any such class as may be prescribed by rules made under this Act), the document shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed:

Provided that a document signifying the consent of the mother of an infant shall not be admissible as aforesaid unless—

- (a) the infant is at least six weeks old on the date of the execution of the document; and
- (b) the document is attested on that date by a justice of the peace or, as the case may be, by a person of a class prescribed as aforesaid.

(4) While an application for an adoption order in respect of an infant is pending in any court, any parent or guardian of the infant who has signified his consent to the making of an adoption order in pursuance of the application shall not be entitled, except with the leave of the court, to remove the infant from the care and possession of the applicant; and in considering whether to grant or refuse such leave the court shall have regard to the welfare of the infant.

(5) For the purposes of subsection (3), a document purporting to be attested as mentioned in that subsection shall be deemed to be so attested, and to be executed and attested on the date and at the place specified therein, unless the contrary is proved. (*Section inserted by 14 of 1950, s. 5.*)

Matters with respect to which court to be satisfied

8. 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; and
- (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, 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

9. 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 orders

10. 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 exercised 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.

(Section amended by 14 of 1950, s. 6, and 37 of 1966, s. 16.)

Treatment of adopted persons as children of adopters for purposes of intestacy, wills and settlements

11.—(1) The provisions of this and section 12 shall have effect for securing that adopted persons are treated as children of the adopters for the purposes of the devolution or disposal of real and personal property.

(2) 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 real or personal property that property shall devolve in all respects as if the adopted person were the child of the adopter born in lawful wedlock and were not the child of any other person. (Amended by 37 of 1966, s. 16.)

(3) If any disposition of real or personal property made, whether by instrument *inter vivos* or by will, after the date of an adoption order—

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

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

(c) any reference (whether express or implied) to a person related to the adopted person in any degree shall 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,

unless the contrary intention appears.

(4) Where under any disposition any real or personal property or any interest in such property is limited (whether subject to any preceding limitation or charge or not) in such a way that it would, apart from this section, devolve (as nearly as the law permits) along with a dignity or title of honour, then, whether or not the disposition contains an express reference to the dignity or title of honour, and whether or not the property or some interest in the property may in some event

become severed therefrom, nothing in this section shall operate to sever the property or any interest therein from the dignity, but the property or interest shall devolve in all respects as if this section had not been enacted.

(5) This section shall be construed as referring to an adoption order whether made before or after the first day of November, 1950, but nothing in this section shall affect the devolution of any property on the intestacy of a person who died before such day aforesaid or any disposition made before such day.

(Section inserted by 14 of 1950, s. 7, and amended by 10 of 1951, s. 2.)

Provisions supplementary to section 11.

12.—(1) For the purposes of the construction of any such disposition as is mentioned in subsection (3) of section 11 an adopted person shall, unless the contrary intention appears, be deemed to be related to any other person, being the child or adopted child of the adopter or (in the case of a joint adoption) of either of the adopters, as brother or sister.

(2) Notwithstanding any rule of law, a disposition made by will executed before the date of an adoption order shall not be treated for the purposes of section 11 as made after that date by reason only that the will is confirmed by a codicil executed after that date.

(3) Notwithstanding anything in section 11, trustees or personal representatives may convey or distribute any real or personal 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.

(4) 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 section 11 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.

(Section inserted by 14 of 1950, s. 7, and amended by 10 of 1951, s. 3.)

Other effects of adoption order

13.—(1) 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, whether made before or after the first day of November, 1950, shall be deemed to be within the prohibited degrees of consanguinity; and the provisions of 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:

Provided that nothing in this subsection shall invalidate any marriage which has been solemnized before the first day of November, 1950.

(2) Where an adoption order is made on or after the first day of November, 1950, in respect of an infant who is illegitimate any affiliation order in force with respect to the infant, and any agreement whereby the father of the infant has undertaken to make payments specifically for the benefit of the infant, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the affiliation order or the agreement at the date of the adoption order:

Provided that where the infant is adopted by his mother, and the mother is a single woman, the order or agreement shall not cease to have effect by virtue of this subsection upon the making of the adoption order, but shall cease to have effect if she subsequently marries.

(3) Where an adoption order is made on or after the first day of November, 1950, in respect of an infant committed to the care of a relative, fit person or institution by an order in force under the Juvenile Act, the last mentioned order shall cease to have effect. (*Section inserted by 14 of 1950, s. 7.*) (Cap. 56)

Power to make interim orders

14.—(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.

Probationary period

15.—(1) An adoption order shall not be made in the case of any infant unless the infant has been continuously in the care and possession of the applicant for at least three consecutive months immediately preceding the date of the order.

(2) An interim order under the provisions of section 14 shall not be made in any case where the making of an adoption order would be unlawful by virtue of the provisions of subsection (1). (*Section inserted by 14 of 1950, s. 8.*)

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

16. 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

17.—(1) The court having jurisdiction to make adoption orders under this Act shall be the Supreme Court or, at the option of the applicant, but subject to any rules made under this section, any court of a resident or second class magistrate within the jurisdiction of which either the applicant or the infant resides at the date of the application for the adoption order.

(2) An appeal to the Supreme Court from any order or refusal to make an order by a magistrates' court under this Act shall lie within such time and in such manner as may be prescribed by rules made under this section.

(3) The Chief Justice may make 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.

Such rules may provide for applications for adoption orders being heard and determined otherwise than in open court and, where application is made to a

magistrate for the hearing and determination thereof in a juvenile court as defined by the Juveniles Act. (Cap. 56)

(4) For the purpose of any application under this Act and subject to any rules made under this section, the court shall appoint some person 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

18. 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

19.—(1) The Registrar-General (in this Act referred to as the "Registrar") shall establish and maintain 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 court shall cause every adoption order to be communicated in the prescribed manner to the Registrar, and upon receipt of such communication the Registrar 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 kept in accordance with the provisions of the Births, Deaths and Marriages Registration Act (in this Act referred to as the Register of Births), with the word "Adopted" and in regard to making the appropriate entry in the Adopted Children Register.

(Amended by 9 of 1955, s. 4.)

(Cap. 49)

(3) A certified copy of any entry in the Adopted Children Register if purporting to be given under the hand of the Registrar 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 or the country of 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 or the country of 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.

(Amended by 14 of 1950, s. 9.)

(4) The Registrar shall cause an index of the Adopted Children Register to be made and kept in the office of the Registrar and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register upon payment of such fee as the Minister may, by order published in the Gazette, prescribe.

(5) The Registrar shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary to record and make traceable the connexion between any entry in the Register of Births which has been marked "Adopted" pursuant to this Act and any corresponding entry in the Adopted Children Register, but such last-

mentioned registers and books shall not be nor shall any index thereof be open to public inspection or search, nor, except under an order of the court, shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

Registration of adoption orders

20.—(1) Every adoption order shall contain a direction to the Registrar to make in the Adopted Children Register an entry in the form set out in the Schedule and (subject to the provisions of subsection (2)) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.

(2) For the purposes of compliance with the requirements of subsection (1)—

(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 name or surname which the infant is to bear after the adoption differs from his original name or surname, the new name or surname shall be specified in the order instead of the original;

and where the country of birth of the infant is not proved to the satisfaction of the court, the particulars of that country may, notwithstanding anything in that subsection, be omitted from the order and from the entry in the Adopted Children Register.

(3) Where upon any application for an adoption order in respect of an infant (not being an infant who has previously been the subject of an adoption order) there is proved to the satisfaction of the court the identity of the infant with a child to which an entry in the Register of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar to cause the entry in the Register of Births to be marked with the word "Adopted".

(4) Where an adoption order is made in respect of an infant who has previously been the subject of an adoption order, the order shall contain a direction to the Registrar to cause the previous entry in the Adopted Children Register to be marked with the word "Readopted".

(5) Where an adoption order is quashed, or an appeal against an adoption order allowed, the court which made the order shall give directions to the Registrar to cancel any marking of an entry in the Register of Births and any entry in the Adopted Children Register which was effected in pursuance of the order.

(6) A copy of any entry in the Register of Births or the Adopted Children Register the marking of which is cancelled under this section shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(7) The court by which an adoption order has been made may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein; and where an adoption order is so amended the prescribed officer of the court shall cause the amendment to be communicated in the prescribed manner to the Registrar and any necessary correction of or addition to the Adopted Children Register shall be made accordingly.

(8) In the case of an adoption order made before the first day of November, 1950, the power of the court under subsection (7) shall include power to amend the order—

(a) by the insertion of the country of the adopted person's birth;
(b) (where the order does not specify a precise date as the date of the adopted person's birth) by the insertion of the date which appears to the court to be the date or probable date of his birth;
and the provisions of that subsection shall have effect accordingly.

(Section inserted by 14 of 1950, s. 10)

Scope of power to make adoption orders

21. It is hereby declared that the power to make adoption orders conferred by this Act includes and has always included power to make an adoption order authorising the adoption of an infant by the mother or father of the infant either alone or jointly with her or his spouse.

SCHEDULE

(Section 20)

(Substituted by 14 of 1950, s. 11.)

FORM OF ENTRY TO BE MADE IN REGISTER

1 No. of entry	2 Date and country of birth of child	3 Name and surname of child	4 Sex of child	5 Name and surname, address and occupation of adopter or adopters	6 Date of adoption order and description of court by which made	7 Date of entry	8 Signature of officer deputed by Registrar-General to attest the entry

Controlled by Ministry of Urban Development, Housing and Social Welfare.

SECTION 17—ADOPTION OF INFANTS (MAGISTRATES' COURTS)
RULES

Made by the Chief Justice

Rules 25th February, 1946 [in force 1st April, 1946], 19th January, 1967

Short title

1. These Rules may be cited as the Adoption of Infants (Magistrates' Courts) Rules.

Interpretation

2. In these Rules—

“Act” means the Adoption of Infants Act;

“applicant” means the person or persons making an application under the Act. (Rule amended by Rules 19th January, 1967)

Application

3.—(1) An application for an adoption order shall be in Form No. 1 in the Schedule, and shall be made to a resident or second class magistrate within the jurisdiction of whom the applicant or the infant resides at the date of the application.

(2) The application shall be accompanied by—

(a) the original documents referred to therein;

(b) a copy of the application;

(c) a copy of every such original document.

(3) The application shall be supported by an affidavit made by the applicant in manner appearing in the said Form No. 1.

(4) Any document signifying the consent of any person to the making of an adoption order for the purposes of section 5 of the Act shall be in Form No. 2 in the Schedule and, if executed before the commencement of the proceedings, shall be attached to the application.

(5) A document executed outside Fiji signifying consent to the making of an adoption order shall be sufficiently attested for the purposes of subsection (3) of section 5 of the Act if it is attested by any of the following persons:—

(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 purpose;

(b) a Fiji or British consular officer;

(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 these forces. (Rule substituted by Rules 19th January, 1967.)

Where previous application refused

4. If it appears to the court that the applicant has made a previous application under the Act in respect of the same infant and that such application has been refused, the court shall not make an adoption order or an interim order unless satisfied that there has been a substantial change in the circumstances.

(Amended by Rules 19th January, 1967.)

Power to appoint guardian ad litem

5.—(1) Subject to the provisions of rule 4, the court shall, as soon as practicable after an application is made, appoint a guardian *ad litem* of the infant and shall furnish him with a copy of the application and of every document referred to therein. (*Substituted by Rules 19th January, 1967.*)

(2) The court may revoke at any time the appointment of a guardian *ad litem* and may appoint another in his place.

(3) The following persons or bodies shall be made respondents, namely, the infant in respect of whom the application is made, the guardian *ad litem* of the infant, every person or body who is a parent or guardian of the infant, or has the actual custody of the infant or is liable to contribute to the support of the infant, and the spouse, if any, of the applicant, except in the case of a joint application by two spouses.

Time for hearing

(4) As soon as the guardian *ad litem* has been appointed, the court shall fix a time for the hearing of the application and shall issue a notice in Form No. 3 in the Schedule addressed to the respondents and shall direct the applicant to cause such notice to be served on each of them:

Provided that where the infant is in the actual custody of any person or body such notice need not be served on the infant, but may require such person or body to produce the infant to the court.

Service

6. 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 or usual place of abode, whether such place or abode is in Fiji or elsewhere:

Provided that where the respondent is a body, the copy shall be sent by registered post 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.

Consent of local authority, etc.

7. Where the consent of a local authority or other body of persons to the making of an adoption order is necessary under the Act, such consent may be given on its behalf by any officer or agent of that body duly authorised in writing in that behalf by such body.

Duty of guardian ad litem

8.—(1) It shall be the duty of the guardian *ad litem* to investigate as fully as possible all the circumstances of the infant and the applicant, and all other matters relevant to the proposed adoption, with a view to safeguarding the interests of the infant before the court and in particular it shall be his duty to include in his investigation the following questions:—

- (a) whether the application is true and complete, particularly as regards the date of birth and the identity of the infant;
- (b) whether any payment or other reward in consideration of the adoption has been received or agreed upon and whether it is consistent with the welfare of the infant;
- (c) whether the means and status of the applicant are such as to enable him to maintain and bring up the infant suitably, and what right to or interest in property the infant has;

- (d) what insurance, if any, has been effected on the life of the infant;
- (e) whether it is desirable for the welfare of the infant that the court should be asked to make an interim order or, in making an adoption order, to impose any particular terms or conditions or to require the adopter to make any particular provisions for the infant.

(2) The guardian *ad litem* shall regard all information obtained by him in the course of his investigation as confidential, and shall not divulge any part of it to any other person except so far as may be necessary for the proper execution of his duty.

(3) On completing his investigations the guardian *ad litem* shall make a confidential report in writing to the court.

(4) 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.

(Paragraphs (3) and (4) inserted by Rules 19th January, 1967.)

Hearing in camera

9. Notwithstanding the provisions of section 17 of the Juveniles Act, in regard to the holding of juvenile court every application under the Act shall be made, heard and determined *in camera*. (Cap. 56)

Personal attendance

10.—(1) The court shall not make an adoption order or an interim order except upon or after the personal attendance before the court of the applicant: Provided that where the application is made by two spouses jointly, the court may dispense with the personal attendance of one of the applicants.

(2) If the applicant has been informed that the personal attendance of the infant at the hearing is required, the court shall not make an adoption order or an interim order unless—

- (a) the infant has so attended or the court decides that there are special circumstances making his attendance unnecessary; and
- (b) the court is satisfied that the infant has been informed of the nature of the order. (Rule substituted by Rules 19th January, 1967.)

Separate attendance of parties: powers

11. The court may direct that any one or more of the respondents shall attend and be heard and examined separately and apart from the applicant or any other respondent, if the court is satisfied that this course is desirable and will not prejudice the determination of any question involved.

Notice to respondent not in attendance

12. 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.

Refusal

13. If, owing to special circumstances, an application appears to the court to be more fit to be dealt with by the Supreme Court, the court may, on that ground expressly, refuse to make an order.

Form of orders

14.—(1) An adoption order or an interim order shall be drawn up in Form No. 4 or No. 5 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-General except by special direction of the Supreme Court or of the juvenile court by which the order was made. (*Amended by Rules 19th January, 1967.*)

(3) An interim order may include such terms as regards the exercise of supervision by the guardian *ad litem* or otherwise as the court may think fit.

Procedure where application postponed

15.—(1) Where the determination of an application has been postponed and an interim order has been made, the applicant shall at least two months before the expiration of the order apply to the juvenile court by which the order was made 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 No. 6 in the Schedule addressed to the respondents and to direct the applicant to cause such notice to be served on each of them:

Provided that where the infant is in the actual custody of the applicant the notice need not be served on the infant.

(2) Where the applicant so applies, an adoption order shall not be made unless the applicant, the infant and the guardian *ad litem* have attended the further hearing.

Costs

16. The court may make such orders as to costs as it shall think fit, and may direct the costs to be taxed according to such one of the scales of costs applicable to actions in magistrates' courts as it shall determine, and in default of such direction the costs shall be taxed under the second highest of these scales. The court may direct that all the costs of an application under the Act or all or any part of the costs of any party thereto shall be born and paid by the applicant.

Copy to be sent to Registrar-General

17. It shall be the duty of the clerk of the court which makes an adoption order to cause a certified copy or a duplicate of such order to be forwarded within seven days to the Registrar-General; and such copy if sent by post shall be sent by registered post.

Court register

18.—(1) A separate register shall be kept by the court in regard to proceedings under the Act and shall contain the particulars shown in Form No. 7 in the Schedule.

(2) Within seven days of the making of an adoption order the clerk of the court shall send the record of the proceedings and all other documents relating thereto by registered post to the Chief Registrar of the Supreme Court who shall keep them in a place of special security.

(3) A general register shall be kept by the Chief Registrar of the Supreme Court in regard to all proceedings under the Act and shall contain the particulars shown in Form No. 8 in the Schedule.

Application of Magistrates' Courts Act

19. Subject to these Rules, the Magistrates' Courts Act and the rules made thereunder shall apply to proceedings under the Act, so far as they are practicable.

Forms

20. The forms in the Schedule shall be used on applications under the Act, and in any case where no form is included in the Schedule the forms in use in the magistrates' courts may be adapted with such variations as may be necessary.

SCHEDULE

FORM NO. 1

ADOPTION OF INFANTS ACT

(CHAPTER 58)

(Substituted by Rules 19th January, 1967)

APPLICATION FOR ADOPTION ORDER

(Rule 3)

(Every paragraph must be completed or deleted as the case may be)

To the Resident/Second Class Magistrate's Court at
.....sitting as a Juvenile Court.

I/We the undersigned /and being desirous
of adopting an infant under the provisions of the Adop-
tion of Infants Act, hereby state—

PART 1—PARTICULARS OF APPLICANT(S)

1. Name of (first) applicant in full
Address
Occupation
Date of birth
Relationship (if any) to infant
(Name of (second) applicant in full
Address
Occupation
Date of birth
Relationship (if any) to infant)
2. I am/We are resident in Fiji.
3. I am a widow/widower/unmarried/I am married to
of /We are married to each other and our mar-
riage certificate (or other evidence of marriage) is attached.
- *4. The consent of my husband/wife to the making of an adoption order
authorising me to adopt the infant is attached.
(or I request the court to dispense with the consent of my husband/wife
on the ground that he/she cannot be found/is incapable of giving his/her
consent/we have separated and are living apart and the separation is
likely to be permanent.)

* Delete if a joint application or if applicant not married.

PART 2—PARTICULARS OF INFANT AND CONSENTS

5. Name in full
6. The infant is of the sex and is not and has not been married.
- †7. The infant is the person to whom the attached birth or adoption certificate relates/the infant was born in on or about
8. The infant is the child/adopted child of:
Name of mother
Address (or deceased) and name of father
Address (or deceased).
9. The guardian (if any) of the infant is:
Name
Address
10. I/We attach a document/documents signifying the consent of the infant's mother/father/guardian to the making of an adoption order authorising me/us to adopt the infant.
11. I/We request the court to dispense with the consent of the infant's mother/father/guardian on the ground that
12. The following person is liable by virtue of an order of a court or an agreement to contribute to the maintenance of the infant:—
Name
Address
Particulars of Court order or agreement:—
Name of Court Date of order or Date of agreement
13. If an adoption order is made in pursuance of this application the infant is to be known by the following names:—
Surname
Other names

PART 3—GENERAL

14. The infant was received into my/our care and possession on the day of, 19....., and has been continuously in my/our care and possession since that date.
15. I have not made/Neither of us has made a previous application for an adoption order in respect of the infant.
(or made an application to the Court on the day of 19....., which was dealt with as follows:.....).
16. I/We have not received or given any reward or payment for, or in consideration of, the adoption of the infant or for giving any consent to the making of the adoption order except as follows:—

† If no certificate enter date and place of birth so far as is known.

17. As far as I/We know, no person or body has taken part in the arrangements for placing the infant in my/our care and possession except: I/We hereby apply for an adoption order in respect of the infant.
Dated this.....day of, 19.....
Signature(s).....

AFFIDAVIT VERIFYING STATEMENTS IN APPLICATION

(Rule 3 (2))

I/We.....of.....Fiji andjointly and severally make oath and say that the statements contained in the above application and signed by me/us are true to the best of my/our knowledge information and belief.

Sworn, etc.
A Commissioner for Oaths.

FORM NO. 2

CONSENT TO ADOPTION ORDER

In the matter of an application to a Juvenile Court by of hereinafter called the applicant, for an order authorising him under the provisions of the Adoption of Infants Act to adopt an infant of the sex years of age resident at hereinafter called the infant.

I, the undersigned, of being—

Delete all but one of these descriptions

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

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

In witness whereof I have signed this consent on the day of , 19 .

(Signature).

Signed in the presence of—

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

Note.—Where the application is made by two spouses jointly the form should be modified.

**Delete except in the case of a parent*

ADOPTION OF INFANTS ACT
(CHAPTER 58)
(Amended by Rules 19th January, 1967.)

NOTICE OF APPLICATION FOR AN ADOPTION ORDER

In the Court of the Resident/Second Class, Magistrate at.....
BETWEEN:

.....Applicant(s)
and
.....Respondent(s)

To
and
Take notice—
of
of
, etc.

(1) That an application has been made by of for an order under the Adoption of Infants Act, authorising him to adopt an infant of the sex aged years resident at

(2) That of has been appointed guardian *ad litem* of the said infant.

(3) That the said application will be heard before the Juvenile Court sitting at on the day of , 19 , 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 infant before the court) but the court may dispose of the case in the absence of any of you.

Dated the day of , 19 .

Magistrate. [L.S.]

Note.—Where the application is made by two spouses jointly the form should be modified.

ADOPTION OF INFANTS ACT
(CHAPTER 58)
(Substituted by Rules 19th January, 1967.)

ADOPTION ORDER

In the Court of the Resident/Second Class Magistrate at.....sitting as a Juvenile Court.

BETWEEN:

.....Applicant(s)
and
.....Respondent(s)

WHEREAS an application has been made by.....of.....(hereinafter called the applicant) for an adoption order in respect of.....an infant of the.....sex the child/adopted child of.....(hereinafter called the infant).

AND WHEREAS the name or names and surnames by which the infant is to be known are.....

AND WHEREAS the court is satisfied that the applicant is qualified, in accordance with the provisions of the Adoption of Infants Act, to adopt the infant and that all conditions precedent to the making of an adoption order by the court have been fulfilled;

IT IS ORDERED that the applicant be authorised to adopt the infant.

(AND as regards costs IT IS ORDERED that.....).

(AND the precise date of the infant's birth not having been proved to the satisfaction of the Court IT IS DETERMINED that the probable date of the infant's birth was the.....day of....., 19....., and such date is hereby specified as the date of the infant's birth).

AND IT IS DIRECTED that the Registrar-General shall make in the Adopted Children Register an entry in the form set out in the Schedule to the Act recording the particulars set out in the Schedule to this order.

(The country of birth of the infant not having been proved to the satisfaction of the court, the particulars of the country of birth shall be omitted from such entry).

AND it having been proved to the satisfaction of the court that the infant is identical with..... (to whom the entry numbered..... made on..... day of....., 19....., in the Register of Births relates) (to whom the entry numbered..... made on the..... day of....., 19....., in the Adopted Children Register relates) IT IS DIRECTED that the said entry in the (Register of Births be marked with the word "Adopted") (the Adopted Children Register be marked with the word "Re-adopted") by the Registrar-General.

(The following payment or reward is sanctioned.....)

Dated the.....day of....., 19.....

(Signature)

Magistrate

SCHEDULE

Date and country of birth of child	Name and surname of child	Sex of child	Name and surname, address and occupation of adopter or adopters	Date of adoption order and description of court by which made
2	3	4	5	6

ADOPTION OF INFANTS ACT

(CHAPTER 58)

(Substituted by Rules 19th January, 1967)

INTERIM ORDER

In the Court of the Resident/Second Class Magistrate at
sitting as a Juvenile Court.

BETWEEN:

.....Applicant(s)

and

.....Respondent(s)

The.....day of, 19.....

WHEREAS an application has been made by.....of
(hereinafter called the applicant) for an adoption order in respect
of.....an infant of the.....sex (hereinafter
called the infant);

AND WHEREAS the court is satisfied that the applicant is qualified, in
accordance with the provisions of the Adoption of Infants Act, to adopt the infant
and that all conditions precedent to the making of an interim order by the court
have been fulfilled;

IT IS ORDERED that the determination of the application be postponed and
that the applicant do have the custody of the infant until the.....day
of....., 19....., by way of a
probationary period.

(on the following terms, namely:—.....)

(AND as regards costs IT IS ORDERED that.....)

(AND that the application shall be further heard on.....)

(Signature)

Magistrate.

ADOPTION OF INFANTS ACT

(CHAPTER 58)

(Amended by Rules 19th January, 1967)

NOTICE OF FURTHER HEARING OF AN APPLICATION FOR AN
ADOPTION ORDER

In the Court of the Resident/Second Class Magistrate at

BETWEEN:

..... Applicant(s)

and

..... Respondent(s)

To
and

of
of

, etc.

Take notice—

(1) That an application was made by then of
for an order under the Adoption of Infants Act, authorising him
to adopt an infant of the sex then aged
..... years.

(2) That of was appointed guardian *ad litem*
of the said infant.

(3) That the determination of the said application was postponed and an
interim order was made by the Juvenile Court sitting at on the
day of 19

(4) That the said application will be further heard before the Juvenile Court
sitting at on the day of
19, and that it is open to you to attend before the court but the court may
dispose of the case in the absence of any of you.

Magistrate.

[L.S.]

Note.—Where the application was made by two spouses jointly the form
should be modified.

FORM NO. 7

(Amended by Rules 19th January, 1967.)

ADOPTION OF INFANTS ACT

(CHAPTER 58)

REGISTER

In the Court of the Resident/Second Class Magistrate at

(1) No.	(2) Date of applica- tion	(3) Name and age of applic- ant(s)	(4) Name, sex and age of infant	(5) Name of guardian <i>ad litem</i>	(6) Names of other respond- ents	(7) Minute of decisions	(8) Signature of Magistrate and date of hearing

FORM NO. 8

ADOPTION OF INFANTS ACT

(CHAPTER 58)

GENERAL REGISTER

(1) No.	(2) Name, sex and age of infant	(3) Name and age of applic- ant(s)	(4) Name of guardian <i>ad litem</i>	(5) Names of other respond- ents	(6) Court which heard application	(7) Date of decision	(8) Minute of decision

SECTION 17—ADOPTION OF INFANTS (SUPREME COURT) RULES

Rules 7th February, 1967

Made by the Chief Justice

1. These Rules may be cited as the Adoption of Infants (Supreme Court) Rules.

2.—(1) An application to the Supreme Court for an adoption order shall be made by originating summons intituled in the matter of the infant and in the matter of the Act.

(2) The originating summons shall ask for the appointment of a guardian *ad litem* for the purposes of safeguarding the interests of the infant.

(3) The originating summons shall be accompanied by a statement, verified on oath or affirmation, of the particulars required to be stated in Form No. 1 set out in the Schedule to the Adoption of Infants (Magistrates' Courts) Rules and shall be accompanied also by the documents and copy documents referred to in rule 3 of those Rules.

3. The proposed adopter shall be the applicant, and the following persons shall be made respondents, namely, the infant in respect of whom the application is made, every person or body who is a parent or guardian of the infant or has the actual custody of the infant or is liable to contribute to the support of the infant, and the spouse, if any, of the applicant, except in the case of a joint application by two spouses.

4. All proceedings in the Supreme Court under the Act shall be heard and disposed of by a Judge in Chambers, subject to the power of the Judge to adjourn the proceedings into open court for the purpose of giving judgment or for such other purpose as he may think fit.

5. Within seven days after an adoption order has been passed and entered the Chief Registrar of the Supreme Court shall send an office copy of the order to the Registrar-General.

6. The Chief Registrar of the Supreme Court shall enter the particulars of all adoption orders made by the Supreme Court in the general register for which provision is made by rule 17 (3) of the Adoption of Infants (Magistrates' Courts) Rules.

7. Subject to these Rules, the Adoption of Infants (Magistrates' Courts) Rules, as from time to time amended or replaced but with all necessary modifications, shall apply to proceedings in the Supreme Court under the Act.

Controlled by Ministry of Urban Development, Housing and Social Welfare