

## **The Adoption of Children Rules, 1997. Uganda**

Statutory Instruments 1997 N°52

IN EXERCISE of the powers conferred upon the Chief Justice by sub-section (1) of section 50 of the Children Statute, 1996 these Rules are made this 5th day of August, 1997.

### **Citation**

1. These Rules may be cited as the Adoption of Children Rules, 1997.

### **Interpretation**

2. In these Rules, unless the context otherwise requires.—

“Court” means the High Court or Chief Magistrate’s Court in which a petition for adoption is lodged;

“child” means the child proposed for adoption;

“guardian *ad litem*” means the person appointed by the Court to represent the child;

“Judge” means any Judge of the High Court;

“petitioner” means the person or persons applying for an adoption order;

“registrar” means the Registrar of the High Court and includes an acting registrar and a deputy registrar and a district registrar;

“Statute” means the Children Statute, 1996;

"sworn statement" means an affidavit or equivalent document sworn in a jurisdiction outside Uganda.

### **Application by petition**

3. (1) When the petitioner or petitioners and the child are all Uganda citizens the application for an adoption order shall be made by petition to the Chief Magistrate’s Court, in Form A in the Schedule to these Rules.

(2) When a petitioner or the child is a non-Uganda citizen the application for an adoption order shall be made to the High Court in Form B in the Schedule to these Rules.

(3) The petitioner or petitioners shall present the petition *ex parte* in person or by advocate to a Judge or Chief Magistrate sitting in chambers and the Judge or Chief Magistrate shall give such directions as to service, appointment of guardian *ad litem*. any further consents as may be required and otherwise as may be necessary.

(4) The Probation and Social Welfare Officer under whose supervision the child has been fostered by the petitioner or petitioners shall—

(a) be present at the ex-parte hearing; and

(b) shall attend all subsequent proceedings as directed by the Court, in order to advise the Court.

### **Application of Civil Procedure Rules S.I. 65-3**

4. The Civil Procedure Rules and practice shall apply to adoption matters as far as is practicable.

## **Persons to be served**

**5.** (1) The petition shall be served on—

- (a) the parent or parents of the child, if any or if none;
- (b) the guardian or guardians of the child or if none;
- (c) the person or persons having the actual custody of the child or if none;
- (d) the person or persons liable to contribute to the support of the child; and
- (e) the child, if of the age of fourteen years or above.

(2) The Judge or Chief Magistrate may dispense with the service on any of those persons listed in sub-rule (1) of this rule and may order the petition to be served on any other person or persons.

## **Mode of service**

**6.** (1) Every petition, notice or document shall, unless the Judge or Chief Magistrate otherwise directs, be served by an officer of the Court, by delivering or tendering a copy of it signed by the registrar or the Chief Magistrate and sealed with the seal of the court to the person to be served.

(2) The service of every petition, shall be verified by affidavit, unless the Judge or Chief Magistrate otherwise directs.

## **Verification by affidavit**

**7.** The statements contained in the petition shall be verified by affidavit to which shall be annexed certificates and other documents proper for proving the allegations in the petition.

## **Form of consent**

**8.** (1) A consent required by the Statute shall be given in Form C in the Schedule to these Rules, except that a consent required by the Statute from a child over the age of fourteen years shall be given in Form D in the Schedule.

(2) All consents shall be sworn before a Commissioner for Oaths and shall be submitted together with the affidavit of verification with the petition or accompanied by a separate affidavit of verification.

## **Age of child**

**9.** (1) The age of the child shall be proved to the satisfaction of the Court which may admit documentary or other evidence to determine the age.

(2) A certified copy of an entry in a Birth's Register Book issued in Uganda by a registrar appointed under the Births and Deaths Registration Act, 1970 in respect of the child shall be *prima facie* evidence of the facts contained in it.

(3) The Court may itself enquire into the age of the child and may make an order for the medical examination of the child in Form E in the Schedule to these Rules, in accordance with section 108 of the Statute.

(4) A certificate signed by a medical officer as to the age of the child shall be evidence of that age.

## **Reports**

**10.** (1) The court shall require the Probation and Social Welfare Officer to prepare a report for the court to help determine whether the adoption order will be for the welfare and best interests of the child.

(2) Reports under sub-rule (1) shall cover the period of the fostering and shall include the following among other matters—

(a) the child's relationships with—

- (i) (i) the foster parent or parents and details of any guidance or correction required;
- (ii) (ii) other members of the foster family;
- (iii) (iii) neighbours and other persons outside the child's foster family;
- (iv) (iv) any other person who is not a parent of the child who may have rights or obligations under any order of the Court or agreement or under customary law or otherwise.

(b) the medical record and current state of health of the child and the foster family;

(c) the educational standard of the child with details of schools attended and progress made during the fostering;

(d) the views and wishes of the child if ascertainable;

(e) the nature and type of the residential home or homes lived in during the fostering;

(f) the past, current and likely future economic status of the foster family;

(g) the character of the foster family including any criminal proceedings taken against members of that family during the fostering and the officer's opinion as to whether that should prevent the adoption;

(h) a summary of the involvement of the Probation and Social Welfare Officer during the fostering, and the assessment of the discharge of their duties by the foster parents, during the statutory period, and the verification of the statements made by the applicant in the adoption application concerning the character of the applicant and the position of his or her country of origin relating to the adoption;

(i) a summary of the involvement of the Secretary for Children's Affairs of the Local Council Committee (1) (if any);

(j) a recommendation to the Court of the course or courses of action most likely to advance the best interests and welfare of the child.

## **Response to petition**

**11.** The guardian *ad litem* or the persons whose consent is required by the Statute may file an affidavit in response to the petition.

## **Fixture of hearing**

**12.** When all documents have been filed and served to the satisfaction of the Court, the Court shall fix a date for a hearing and give notice to all parties in Form F set out in the Schedule to these Rules.

## **Form of hearing**

**13.** The Judge or Chief Magistrate shall sit in camera and shall not interpose any other matters during the hearing at the adoption proceedings.

## **Secrecy**

**14.** All documents filed in the Court shall be confidential, and shall be kept secret by the Registrar or Chief Magistrate.

## **No copies of orders to be served on others**

**15.** No copy or duplicate of any order made by the Judge or Chief Magistrate shall be given to or served upon any person other than the petitioner, the Probation and Social Welfare Officer and the Registrar-General, unless the Judge or Chief Magistrate otherwise directs.

## **Costs**

**16.** (1) The Judge or Chief Magistrate may make such orders as to costs as he or she shall think fit.

(2) The Judge or Chief Magistrate may direct that all the costs of a petition including any fee in connection with the reports under sub-rule (2) of rule 10, shall be borne and paid by the petitioner.

## **Forms**

**17.** (1) The forms in the Schedule to these Rules, with such variations as shall in the circumstances of each case be necessary, shall be used in applications under the Statute.

(2) In particular, where two petitioners one of whom is not a citizen of Uganda wish to adopt a Uganda child, Forms A and B in the Schedule to these Regulations may be adapted for the purposes of that adoption.

(3) For the purpose of registration of adoptions under section 59 of the Statute, the Registrar of Births and Deaths shall continue to use the Adopted Children Register established by section 13 of the Adoption of Children Act, with necessary modifications to bring it into conformity with Form H in the Schedule to these Rules.

## **Transfer between courts**

**18.** The Judge or Chief Magistrate may order a petition to be transferred to the appropriate court if the petition has been lodged in error and may make such order as to costs as he or she shall think fit.

## **Revocation**

**19.** The Adoption of Children Rules are hereby revoked.