# <chapter>

# <title>CHAPTER A3 - ADOPTION LAW</title>

<cover>ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

2. Interpretation.

3. Application.

4. Power to make Adoption Order.

5. Restriction on the making of Adoption Orders.

6. Consents to adoption.

7. Functions of court as to Adoption Order.

8. Interim order.

9. Application by a person who is not a citizen of Nigeria.

10. Jurisdiction.

11. Rules of Court.

12. Appeals.

13. Corrective orders.

14. Rights and duties of parents.

15. Intestacy.

16. Construction of settlements and wills.

17. Effect of adoption on maintenance orders.

18. Adopted Children Register.

19. Prohibition of certain payments.

20. Restriction on sending juvenile away for adoption.

21 Licence to send juvenile away for adoption.

22. Recognition of other adoption.

23. Prohibition against withdrawal of juvenile.

24. Prohibition of marriage of adopter, etc., with adopted juvenile.

25. Visit to adopted person by Social Welfare Officer.

SCHEDULE

*Adopted Children Register*

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**GENERAL NOTE: The expression "Permanent Secretary" is substituted with the expression "Commissioner" wherever it appears in this Law, by Law No. 4 of 2006.</cover>**

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**ADOPTION LAW**

**<lawdecription>A Law to regulate and control the adoption of juveniles. </lawdescription>**

<lawnumber>[KWS 12 of 1987, No. 4 of 2006.]</lawnumber>

<lawdate>[Date of commencement: 21*st October,* 1987]</lawdate>

<sections>

<section>

**<heading>1. Short title</heading>**

<body>This Law may be cited as the Adoption Law.</body>

</section>

<section>

**<heading>2. Interpretation</heading>**

**<body>**

In this Law, unless the context otherwise requires—

**"adoption"** means the taking of a child or young person into the family of a spouse whereby there is transferred to the spouse all the rights, duties, obligations and liabilities of the natural parents in relation to the child or young person, as a result of which transfer the spouse stands to the child or young person in the position of his lawful parent;

**"Adoption Order"** means an order made under section 4 (1) of this Law;

**"Chief Registrar"** means the Chief Registrar of the State's High Court of Justice;

**"Commissioner"** means the Commissioner for the Ministry charged with the responsibility for Social Development in the State;

[No. 4 of 2006.]

**"court"** means a court having jurisdiction to make Adoption Orders under this Law;

**"father"** in relation to a child means the natural father;

**"juvenile"** means a person who is under sixteen years of age and to whose adoption this Law applies;

**"Permanent Secretary" ……….**

[No. 4 of 2006.]

**"Probation Officer"** means any officer so designated by the Ministry charged with the responsibility for Child Welfare;

**"relative"** in relation to a juvenile means a grandparent, brother, sister, uncle or aunt whether of the full-blood or half-blood or by affinity and includes the natural father of the juvenile and any person who would be a relative of the juvenile within the meaning of this definition if the juvenile were the natural child of his father; and

**"State"** means the Kwara State of Nigeria.</body>

**</section>**

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**<heading>3. Application</heading>**

**<body>**

(1) This Law shall apply only to the adoption of a person under the age of sixteen years who is abandoned, and whose parents and other relatives are unknown or cannot be traced after due enquiry certified by a juvenile court.

(2) All references in this Law to a juvenile shall be construed as references to a person to whose adoption this Law applies.</body>

</section>

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**<heading>4. Power to make Adoption Order</heading>**

<body>(1) Subject to the provisions of this Law the court may, upon the application of any person in the prescribed manner, make an order (hereafter in this Law referred to as "an Adoption Order") to adopt a juvenile.

(2) An Adoption Order may be made upon the application of two spouses authorising them jointly to adopt a juvenile, save that in no other case shall an Adoption Order authorise more than one person to adopt a juvenile. </body>

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**<heading>5. Restriction on the making of Adoption Orders</heading>**

<body>(1) An Adoption Order shall not be made in respect of a juvenile unless—

(*a*) the applicant or, in the case of joint applicants, one of them is not less than twenty-five years old and is at least twenty-one years older than the juvenile;

(*b*) the applicant and the juvenile are resident in the State;

(*c*) the juvenile has been in the care of the applicant for a period of at least three consecutive months immediately preceding the date on which the Order is made; and

(*d*) the applicant has at least three months before the making of the Order informed the Probation Officer of his intention to adopt the juvenile.

(2) An Adoption Order shall not be made in respect of a female juvenile where the sole applicant is a male unless there are exceptional circumstances which in the view of the court justify the making of such an Order.</body>

</section>

<section>

**<heading>6. Consents to adoption</heading>**

<body>(1) Where a married man or woman is the sole applicant for an Adoption Order, the court may, if it thinks fit, refuse to make the Order unless the consent of the wife or husband, as the case may be, to the making of the Order is first obtained.

(2) Where it appears to the court that any person, other than the father or mother or relative of a juvenile has any right or obligations in respect of that juvenile under any order of court or any agreement or under customary law, the court may, if it thinks fit, refuse to make the Adoption Order unless the consent of that person is first obtained.

(3) It shall be the duty of the Probation Officer on any application for an Adoption Order in respect of a juvenile to prepare a report to assist the court in determining whether any person who is not a parent or relative of the juvenile has any rights or obligations in respect of that juvenile and whether the consent of any such person ought first to be obtained.

(4) Any consent under this section may be given either—

(*a*) unconditionally; or

(*b*) subject to conditions with respect to the religious persuasion in which the juvenile is to be brought up.

(5) In giving any consent under subsection (4) of this section, it shall not be necessary for the person giving the consent to know the identity of the applicant for the Adoption Order; and where consent so given by anyone is subsequently withdrawn on the ground only that he does not know the identity of the applicant, the consent shall be treated for the purposes of this section as having been unreasonably withheld.

(6) The court may dispense with any consent required under this section if it is satisfied that the person whose consent would have been required—

(*a*) has abandoned, neglected or persistently ill-treated the child; or

(*b*) cannot be found or is incapable of giving his consent or is withholding his consent unreasonably.

(7) Where the juvenile to be adopted is ten years and above, such order shall not be made unless the voluntary consent of the juvenile is also obtained.</body>

</section>

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**<heading>7. Functions of court as to Adoption Order</heading>**

<body>(1) Before making an Adoption Order the court shall be satisfied that—

(*a*) every consent required under section 6 of this Law which has not been dispensed with has been obtained, and that every person who has given his consent understands the nature and effect of the Adoption Order for which the application is made;

(*b*) the Order, if made, will be for the welfare of the juvenile, due consideration for this purpose being given to the wishes of the juvenile having regard to his age and understanding; and

(*c*) the applicant has not received or agreed to receive, and 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 other than what the court may approve.

(2) The court may impose in an Adoption Order 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 juvenile such provision as, in the opinion of the court, is just and expedient.</body>

</section>

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**<heading>8. Interim order</heading>**

<body>(1) Subject to the other provisions of this section, the court may, upon any application for an Adoption Order postpone the determination of the application and make an interim order giving the custody of the juvenile to the applicant for a period not exceeding two years by way of a probationary period upon terms as the court thinks fit as regards provision for the maintenance, education and supervision of the juvenile and otherwise.

(2) The court shall impose as conditions under subsection (1) of this section thus—

(*a*) that the juvenile shall be under the supervision of such Welfare Officer as the Commissioner may appoint; and

(*b*) that the juvenile shall not be taken out of the State without the consent of the court.

[No. 4 of 2006.]

(3) The consent to the making of an Adoption Order which is required under section 6 of this Law shall be required for the making of an interim order, and the power of the court to dispense with any such consent shall apply in the case of an interim order as it applies in the case of an Adoption Order.

(4) An interim order shall not be made in any case where the making of an Adoption Order would be unlawful under section 5 of this Law.

(5) An interim order shall not be deemed to be an Adoption Order within the meaning of this Law.</body>

</section>

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**<heading>9. Application by a person who is not a citizen of Nigeria</heading>**

<body>Where the applicant for an Adoption Order, or in the case of a joint application, one of the applicants is not a citizen of Nigeria, the court shall in the exercise of its powers under section 8 of this Law postpone the determination of the application for a period of not less than six months and make an interim order in respect of the period.</body>

</section>

<section>

**<heading>10. Jurisdiction</heading>**

<body>Every application for an Adoption Order shall be made to the juvenile court within the jurisdiction of which the applicant or the juvenile resides at the date of the application.</body>

</section>

<section>

**<heading>11. Rules of Court</heading>**

<body>(1) The Chief Judge of the State may make Rules of Court providing generally for the practice and procedure of the court in respect of the adoption of juveniles.

(2) The power to make rules conferred under subsection (1) of this section shall, without prejudice to the generality of that subsection include power to make provision for—

(*a*) applications for Adoption Orders to be heard and determined otherwise than in open court;

(*b*) the admission of documentary evidence of any consent required under section 6 of this Law; and

(*c*) requiring the Probation Officer to prepare for the consideration of the court on an application for an Adoption Order, a report for the assistance of the court in determining whether the order will be for the welfare of the juvenile.</body>

</section>

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**<heading>12. Appeals</heading>**

<body>An appeal shall lie to the High Court from the Juvenile Court in respect of any decision on any application for an Adoption Order other than a decision to postpone the determination of an application for such an Order and make an interim order.</body>

</section>

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**<heading>13. Corrective orders</heading>**

<body>(1) Arrangements may be made for the adoption of any juvenile in respect of whom a corrective order is made under the Children and Young Persons Law committing him to the care of an individual not being a relative.

[Cap. C10.]

(2) In every case to which subsection (1) of this section applies, on the application for an Adoption Order being made, and on being satisfied that the adoption would be for the welfare of the child or young person concerned, the Juvenile Court shall suspend the corrective order so as to enable the applicant to have the child or young person in his care for a period of at least three consecutive months immediately preceding the date of the Adoption Order. </body>

</section>

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**<heading>14. Rights and duties of parents</heading>**

<body>(1) Upon an Adoption Order being made—

(*a*) all rights, duties, obligations and liabilities, including those under customary law applicable to the parents of the juvenile or any other person in relation to the future customary maintenance and education of the juvenile (including all rights to appoint a guardian and to consent or give notice of dissent to marriage) shall be extinguished; and

(*b*) there shall vest in, and be exercisable and enforceable against the adopter all rights, duties, obligations and liabilities in respect of the future custody, maintenance and education of the juvenile as would vest in him if the juvenile were a child born to the adopter in lawful marriage; and, in respect of the matters aforesaid, the juvenile shall stand to the adopter exclusively in the relationship of a child so born.

[No. 4 of 2006.]

(2) In the case where a man and his wife are joint adopters of a juvenile the man and his wife shall in respect of the matters aforesaid and for purpose of the jurisdiction of the court to make orders as to the custody and maintenance of and rights of access to children, stand to each other and to the juvenile in the same relation as they would have stood if the juvenile were a child born to them in lawful marriage; and, in respect of the matters aforesaid, the juvenile shall stand to them exclusively in the relationship of a child so born.</body> </section>

<section>

**<heading>15. Intestacy</heading>**

<body>For the purpose of the devolution of property on the intestacy of an adopter, an adopted person shall be treated as the lawful child of the adopter and not as the child of any other person.</body>

</section>

<section>

**<heading>16. Construction of settlements and wills<heading>**

<body>In any disposition of property made after the date of an Adoption Order any reference (whether express or implied) to—

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

(*b*) 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 marriage and were not the child of any other person.</body>

</section>

<section>

**<heading>17. Effect of adoption on maintenance orders </heading>**

<body>Where at the time when an Adoption Order is made in respect of a juvenile an order requiring a person to contribute towards the maintenance of that juvenile under the Children and Young Persons Law is in force the last-mentioned order shall cease to have effect at that time.</body></section>

[Cap. B3.]

<section>

**<heading>18. Adopted Children Register</heading>**

<body>(1) The Chief Registrar shall establish and maintain a register to be known as the Adopted Children Register in which shall be made such entries as may be directed by an Adoption Order to be made therein, but no other entries.

(2) If upon any application to the court for an Adoption Order there is proved to the satisfaction of the court—

(*a*) the date of the birth of the juvenile; and

(*b*) the identity of the juvenile with a child to whom any entry in the Register of Births relates,

the Adoption Order shall contain a further direction to the Chief Registrar to cause that birth entry in the Register of Births to be marked "Adopted" and to include in the entry relating to the adoption of the juvenile's birth in the manner specified in the Schedule hereto.

[Schedule.]

(3) Where an Adoption Order is made in respect of a juvenile who had been the subject of a previous Adoption Order made by the court under this Law, the Order shall contain a direction to the Chief Registrar to cause the previous entry in the Adopted Children Registrar in respect of that juvenile to be marked "Re-adopted".

(4) The Court shall cause a copy of every Adoption Order to be communicated to the Chief Registrar and upon receipt thereof the Chief Registrar shall comply with the direction contained therein.

(5) A certified copy of an entry in the Adopted Children Register if stamped or sealed with the seal of the Chief Registrar's office shall be proof of such adoption as is therein specified and where the copy of the entry includes the date of the birth of the juvenile to whom it relates, it shall be proof also of such date without any further evidence as though the same were also a certified copy of an entry in the Register of Births.

(6) The Chief Registrar shall cause an index of the Adopted Children Register to be made and kept in the registry.

(7) The Chief Registrar in addition to the Adopted Children Register and the index thereof shall keep such other registers and books and make such entries therein as it may be necessary to record and the connection between any entry in the Register of Births which has been marked "Adopted" or "Re-adopted" and any corresponding entry in the Adopted Children Register.

(8) Any such registers or books as are mentioned in subsection (7) of this section or any index thereof (if any) shall not be liable to searches by members of the public nor shall the Chief Registrar make a certified copy thereof or furnish any information therein contained to any person except under an order made by a court.

(9) Upon the revocation of any Adoption Order, the court shall cause the fact of the revocation to be communicated to the Chief Registrar who shall cause same to be cancelled—

(*a*) the entry in the Adopted Children Register relating to the adopted person; and

(*b*) the marking with the word "Adopted" or "Re-adopted" of any entry relating to him, in the Register of Births.

(10) 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. </body>

</section>

<section>

**<heading>19. Prohibition of certain payments </heading>**

<body>(1) It shall not be lawful for an adopter or any other person to receive or agree to receive any payment or reward, except with the sanction of the court, in consideration for the adoption of a juvenile under this Law or for the facilitation of the arrangement thereof, or for any person to make or give or agree to make or give to an adopter any payment the receipt of which is prohibited by this subsection.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand naira or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. </body> </section>

[No. 4 of 2006.]

<section>

**<heading>20. Restriction on sending juvenile away for adoption </heading>**

<body>(1) Except under a licence issued under section 21 of this Law it shall not be lawful for any person to permit or cause or procure the care and possession of a juvenile to be given to any person outside the State with a view to getting the juvenile adopted by any person.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand naira or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. </body>

</section>

[No. 4 of 2006.]

<section>

**<heading>21. Licence to send juvenile away for adoption</heading>**

<body>(1) Subject to the other provisions of this section, the Commissioner may grant a licence, subject to such conditions and restrictions as he may think fit, authorising the care and protection of a juvenile for whose adoption elsewhere arrangements have been made for the juvenile to be transferred to a person resident whether within or outside Nigeria.

[No. 4 of 2006.]

(2) A licence shall not be granted under this section unless the Commissioner is satisfied as respects every person whose consent would be required under section 6 of this Law to the making of an Adoption Order, for the adoption of the juvenile that—

(*a*) the application for the aforesaid licence is made with the consent of that person; or

(*b*) the consent of that person can properly be dispensed with on any ground on which the court could dispense with a consent to an adoption under the said section 6.

[No. 4 of 2006.]

(3) A licence shall not be granted under this section unless the Commissioner is satisfied that the person to whom the care and possession of the juvenile is proposed to be transferred is a suitable person to be entrusted therewith, and that the transfer is likely to be for the welfare of the juvenile and consideration being, for this purpose, given to the wishes of the juvenile, having regard to the age and understanding of the juvenile.</body>

</section>

[No. 4 of 2006.]

<section>

**<heading>22. Recognition of other adoption</heading>**

<body>Where any person has been adopted under the law in force in any part of Nigeria other than Kwara State, or under the law of any country other than Nigeria, the adoption shall have the like validity and effect as if it had been effected by any Adoption Order under this Law.</body> </section>

<section>

**<heading>23. Prohibition against withdrawal of juvenile</heading>**

<body>While an application for an Adoption Order is pending in any court, no person who has given his consent to an Adoption Order being made in respect of a juvenile shall withdraw the juvenile from the care and possession of the applicant without the leave of the court and the court shall have regard to the welfare of the juvenile in considering whether or not to grant such leave.</body> </section>

<section>

**<heading>24. Prohibition of marriage of adopter, etc., with adopted juvenile </heading>**

<body>(1) To the extent to which marriage is a matter within the legislative competence of the State, a marriage between any person who has adopted a juvenile under this Law or between a natural child of such person and the adopted juvenile is hereby prohibited.

(2) Any person who acts in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a term of imprisonment of five years.</body> </section>

<section>

**<heading>25. Visit to adopted person by Social Welfare Officer</heading>**

<body>(1) It shall be the duty of the Chief Social Welfare Officer of the State to keep himself informed from time to time of the condition and welfare of such person adopted under this Law and for that purpose, the Chief Social Welfare Officer of the State shall arrange for officers of his Division to do all or any of the following things, that is to say—

(*a*) to pay periodical visits at reasonable time to each person adopted under this Law until such person attains the age of eighteen years;

(*b*) to enter any premises for the purpose of ascertaining whether there is any contravention by any person of any condition or of any provision of this Law,

and during any visits under this section, the officer conducting the visit may require the production of the adopted person or that information be given regarding the condition of such person.

(2) A person who—

(*a*) without reasonable excuse fails to comply with a requirement imposed by a Social Welfare Officer; or

(*b*) obstructs a Social Welfare Officer in the exercise of the powers conferred by this section,

shall be guilty of an offence and be liable on conviction to a fine not exceeding two thousand naira or imprisonment not exceeding six months or to both such fine and imprisonment.</body> </section>

[No. 4 of 2006.]

</sections>

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</schedule>

SCHEDULE

<lawnumber> [Section 18.] <lawnumber>

*<title> Adopted Children Register </title>*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| No. of entry | Date of entry | Name of adopted child (enter names as stated in Adoption Order) | Sex of adopted child | Name and surname, address and occupation of adopters (enter name, address and occupation as stated in Adoption Orders) | Date of birth of adopted child (enter date of birth only if directed by the Adoption Order to be entered, but otherwise no entry) | Date of Adoption Order and description of court by which made (entry to be as appearing on the Adoption Order) | Signature of officer authorised by Chief Registrar to attest entry |

<cdata>CHAPTER A3

**ADOPTION LAW**</cdata>

<subsidiarylegislation>

SUBSIDIARY LEGISLATION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<cover> List of Subsidiary Legislation

1. Adoption Rules.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ADOPTION RULES**

ARRANGEMENT OF RULES

RULE

1. Short title and commencement.

2. Form of application.

3. Consent documents.

4. Court not to proceed with application previously considered by another court.

5. Refusal to proceed with application.

6. Chief Social Welfare Officer to be Guardian *ad litem*.

7. Time for hearing applications and notice to be served.

8. Other sections to be served.

9. Applicant to attend Court in person.

10. Personal attendance of Juvenile.

11. Postponement of hearing.

12. Form of Adoption Order.

13. Abridged copy of adoption order to be served on Applicant.

14. Form of Interim Order.

15. Copy of Adoption Order, etc. not to be supplied to unauthorised persons.

16. Costs.

17. Proceedings to be regulated in same way as proceeding on complaints.

18. Procedure in the absence of special provision.

SCHEDULE 1

*Forms*

SCHEDULE 2

*Particulars, Duties of Guardian ad litem </cover>*

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**<lawtitle> ADOPTION RULES </lawtitle>**

<lawnumber> [KWS LN 8 of 1989.]</lawnumber>

**<lawdesciption> In exercise of the powers conferred upon me by section 11 of the Adoption Law, 1987 and of all other powers enabling me in that behalf, I, Timothy Adepoju Oyeyipo, Chief Judge of the Kwara State of Nigeria hereby make the following rules—</lawdescription>**

<lawdate> [Date of commencement: 21*st October*, 1987] </lawdate>

<sections>

**<section>**

**<heading>1. Short title and commencement </heading>**

<body> These Rules may be cited as the Adoption Rules, 1989 and shall be deemed to have come into force on the 21st day of October, 1987. </body> </section>

<section>

**<heading> 2. Form of application </heading>**

<body> (1) An application to adopt a juvenile shall be as in Form 1 in Schedule I to these rules and shall be made to the Chief Social Welfare Officer of the State by delivering it or sending it by post to him together with all documents referred to in the application as attached thereto.

[Form 1, Schedule 1.]

(2) The Chief Social Welfare Officer shall commence the proceedings for adoption by filing the application made under this rule in a juvenile Court.

(3) No filing fees shall be charged for filing applications under these rules. </body> </section>

<section>

**<heading> 3. Consent documents </heading>**

<body> For the purposes of Section 6 of the Adoption Law 1987 any document signifying the consent of any person to the making of an Adoption Order shall be in Form 2 or as near thereto as possible. </body> </section>

[Form 2.]

<section>

**<heading> 4. Court not to proceed with application previously considered by another court </heading>**

<body> If it appears to any court that the applicant has previously made an application in respect of the same juvenile and the Chief Social Welfare Officer had commenced proceedings in respect thereof either in the Magistrate's Court or in the High Court and that the court had, after having heard the case, dismissed the application on its merits, the court shall not proceed with the application unless it is satisfied that there has been substantial change in the circumstances since the previous application or that there are compelling reasons not considered by the Magistrate's Court or the High Court in the previous application. </body> </section>

<section>

**<heading> 5. Refusal to proceed with application </heading>**

<body> (1) If owing to special circumstances, any application appears to the court to be more fit to be dealt with by the High Court, the court may, at any stage of the proceedings refuse, on those grounds, to proceed with the application.

(2) Where an application has been refused under sub-paragraph (1) hereof or otherwise the applicant may apply to the High Court.

(3) Where an application is made to the High court, the judge shall hear and determine the application in chambers. </body> </section>

<section>

**<heading> 6. Chief Social Welfare Officer to be Guardian *ad litem* </heading>**

<body> (1) For the purposes of these rules, the Chief Social Welfare Officer shall be the guardian *ad litem* of every juvenile adopted or Intended to be adopted under these rules and, as such, shall exercise such functions, in addition to those mentioned in Schedule 2 to these rules, as may be specified.

[Schedule 2.]

(2) The Chief Social Welfare Officer may delegate his duties as guardian *ad litem* to officers, particularly Welfare and Probation Officers, in his division.

(3) The guardian *ad litem* shall, so far as is reasonably practicable, investigate the circumstances relevant to the proposed adoption including the matters alleged in the application and those specified in Schedule 2 and on completion of this investigation, make a confidential report in writing to the court.

(4) The guardian *ad litem* may, at any time, make such interim reports to the court as appears to him necessary with a view to obtaining the directions of the court on any particular matter. </body> </section>

<section>

**<heading> 7. Time for hearing applications and notice to be served </heading>**

<body> (1) The court shall fix the time for the hearing of the application and inform the guardian *ad litem* and also serve a notice as in Form 3 on the applicant.

[Form 3.]

(2) If the guardian *ad litem* informs the court that in his opinion, the Juvenile is able to understand the nature of an adoption order, the Court shall inform the applicant that the personal attendance of the juvenile at the hearing of the application is required and the applicant shall produce the juvenile at the hearing of the application. </body> </section>

<section>

**<heading> 8. Other sections to be served </heading>**

<body> (1) After the time for the hearing of the application has been fixed, the court shall serve a notice as in Form 4 on the following persons—

(i) every person, not being an applicant, whose consent to the making of the adoption order is required under section 3 of the law;

[Form 4.]

(ii) any person liable by virtue of any order or agreement to contribute to the maintenance of the juvenile;

(iii) any society or body of persons named in the application or in a form of consent as having taken part in the arrangement for the adoption of the juvenile; and

(iv) any other person, not being a juvenile, who in the opinion of the court ought to be served with notice of the hearing of the application.

(2) Any person on whom a notice is required to be served under this rule shall be a respondent to the application. </body> </section>

<section>

**<heading> 9. Applicant to attend Court in person </heading>**

<body> The court shall not make or an interim order except after the personal attendance of the applicant, but, where the application is made by two spouses jointly, the court may dispense with the personal attendance of one of the applicants if the application is verified by a declaration made by that applicant and attested by a registrar of a court, Commissioner for Oaths or Notary Public. </body> </section>

<section>

**<heading> 10. Personal attendance of Juvenile </heading>**

<body>If the applicant has been informed that the personal attendance of the juvenile at the hearing is required, the court shall not make an adoption order or an interim order unless—

(*a*) the juvenile has so attended or the court decides that there are special circumstances making his attendance unnecessary; and

(*b*) the court is satisfied that the juvenile has been informed of the nature of the order. </body> </section>

<section>

**<heading> 11. Postponement of hearing </heading>**

<body> Where the determination of an application is postponed and an interim order made the court shall on making the order or at any time thereafter, but not less than one month before the expiration of the period during which the applicant has the custody of the juvenile in accordance with the interim order whether or not the applicant makes an application for the purpose fix a time for further hearing of the application and both the applicant and the respondent shall be informed accordingly. </body> </section>

<section>

**<heading> 12. Form of Adoption Order </heading>**

<body> After the determination of an application for adoption, an adoption order as in Form 5 shall be drawn up and within seven days after the making thereof the Registrar of the court shall send a copy of the order to the Chief Registrar. </body> </section>

[Form 5.]

<section>

**<heading> 13. Abridged copy of adoption order to be served on Applicant </heading>**

<body> Within seven days after the making of an adoption order, the Registrar shall serve on the applicant an abridged copy as in Form 6 of the adoption order signed by the Registrar. </body> </section>

[Form 6.]

<section>

**<heading> 14. Form of Interim Order </heading>**

<body> An interim order made in accordance with section 5 of the Adoption Law, 1987 shall be drawn up as in Form 7 and within seven days after the making thereof, the Registrar shall serve a copy of the order on the applicant. </body> </section>

[Form 7.]

<section>

**<heading> 15. Copy of Adoption Order, etc. not to be supplied to unauthorised persons </heading>**

<body> Except in accordance with rules 10, 11 and 12, 13, or on the order of a court, the Registrar shall not supply to any person a copy of an adoption order or of an interim order or an abridged copy of an adoption order. </body> </section>

<section>

**<heading> 16. Costs </heading>**

<body> On the determination of an application or on the making of an interim order, the court may make such order as to cost as it thinks fit and in particular may order the applicant to pay—

(*a*) the out-of pocket expenses incurred by guardian *ad litem*; and

(*b*) the expenses incurred by any respondent in attending the hearing or such part of those expenses as the court thinks proper. </body> </section>

<section>

**<heading> 17. Proceedings to be regulated in same way as proceeding on complaints </heading>**

<body> Save in so far as special provision is made by these rules, proceedings on an application shall be regulated in the same manner as proceedings on complaint and, accordingly, for the purposes of this rule, the applicant shall be deemed to be a complainant, the respondent to be a defendant and any notice served under these rules shall be construed as enabling a warrant of arrest to be issued for failure to appear in answer to any such notice. </body> </section>

<section>

**<heading> 18. Procedure in the absence of special provision </heading>**

<body> (1) Subject to rule 17, whenever in any proceeding on an application it is necessary for the court to do a thing but the court cannot do that thing by reason of the absence in these rules of any provision for the doing of the thing, the court may apply, with such modification as it deems fit, such provision of the rules of the High Court, or the Magistrate Court as the case may be, as the court thinks is most suitable to give effect to the doing of that thing.

(2) For the avoidance of doubt, the procedure adopted in hearing and determining applications under these rules shall be the same as the procedure adopted in hearing and determining civil suits, in as the case may be, a Magistrate Court or a High Court. </body> </section>

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<schedules>

<schedule>

<header> FIRST SCHEDULE </header>

<lawnumber>[Rules 2.] </lawnumber>

<forms>

<form>

<formtitle> FORM 1\*

*Application for Adoption Order </formtitle>*

<body > This Form must be lodged in duplicate, but duplicates of the attached documents need to be lodged. Every paragraph must be completed or deleted, as the case may be.

To the……………………………………………………………………High Court/Magistrate

1. Name in full of first applicant ………………………………………………..….....

Address……………………………………………………………………………….

Occupation …………………………………………………………………………..

Date of Birth………………………………………………………………………….

Relationship (if any) to juvenile ……………………………………………………...

Name in full of second applicant……………………………………………………...

Address………………………………………………………………………………..

Occupation ……………………………………………………………………………

Date of Birth…………………………………………………………………………..

Relationship (if any) to juvenile ………………………………………………………

2. I am/We are resident in ……………………………………………………………….in

………………………………………………..Local Government Area and domiciled in

……………………………………………………………………………………………

3. I am a widow/widower/Unmarried/I am married to…………………………………….

of………………………………………………………….We are married to each other

and the marriage 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 juvenile is attached or I request the court to dispense with the consent of my husband/wife on the grounds that he/she cannot be found or incapable of giving such consent, or we have separated and are living apart and the separation is likely to be permanent.

5. I/We attached a certificate as to my health/the health of each of us signed by a duly registered medical practitioner.

6. I/We attached certificate of origin attested to by both my/our local Chief and Local Government's Chairman.

\* delete if a joint application or if applicant not married.

PARTICULARS OF JUVENILE

6. Name in full ……………………………………………………………………………...

7. The juvenile is of the…………………………….sex and is not and has not been married.

8. The juvenile is the person to whom the attached Birth or Adoption Certificate relates, the juvenile was born in ………………………………………………………………….

9. I/We attached a report as to the health of the Juvenile made by a fully registered Medical Practitioner.

10. The juvenile is the child of—

Name of mother……………………………………………………………………….

\* The original numbering of the sections has been retained.

FORM 1—*continued*

Address………………………………………………………………………………

And name of father…………………………………………………………………..

Address………………………………………………………………………………

11. The guardian, if any, of the juvenile is—

Name ……………………………………………………………………………….

Address……………………………………………………………………………..

12. I/We attach a document/documents signifying the consent of the juvenile's mother/father/guardian to the making of an adoption order authorising me/us to adopt the juvenile.

13. I/We request the court to dispense with the consent of the juvenile's mother/father/guardian on the ground that ………………………………………………

……………………………………………………………………………………………

14. The following body or person has the rights and powers of a parent of the Juvenile

Name …………………………………………………………………………………….

Address…………………………………………………………………………………..

15. The following person is liable by virtue of an order of a court or an agreement to contribute to the maintenance of the juvenile.

Name ………………………………………………………………………………..... Address …………………………………………………………………………………..

PARTICULARS OF COURT ORDER OR AGREEMENT

Name of court…………………………………………………………………………….

Date of order ……………………………………………………………………………..

or Date of Agreement ………………………………………………………………....

16. If an Adoption Order is made in pursuance of this application, the juvenile is to be known by the following names—

Surname ………………………………………………………………………………….

Other Names …………………………………………………………………………......

MEDICAL REPORT AS TO HEALTH OF JUVENILE

17. Name of juvenile ………………………………………………………………………..

Date of Birth………………………………………Sex …………………………….......

Weight…………………………………………….Height………………………………

A. General condition

Skin;

Eyes (including vision);

Ears (including hearing);

Nose and throat;

Speech;

Cardio-Vascular System;

Respiratory System;

Alimentary;

Genioto-urinary system (including examination of urine for albumen, sugar and phenyphyluvie acid) Skeletal and particular system (including examination for congenital dislocation of hip);

Nervous system (including fits);

FORM 1—*continued*

Lymphatic system.

Any other comments.

Is the juvenile physically normal having regard to his/her age?

B. Are there any items in the juvenile's history or examination which suggest that he/she may be mentally abnormal having regard to his/her age?

C. Particulars from any illness from which the juvenile has suffered.

D. If known—

Weight at birth (if Juvenile is under one year of age)………………………………….

Details of birth, including result of mother's serological tests for syphilis. Particulars, with dates,

of vaccination or immunization against Tuberculosis (state result of manteux test or whether Juvenile has been successfully vaccinated with B.C.G. Vaccine).

Small pox;

Diphtheria;

Whooping cough;

Polimyclits;

Tetanus (active);

Any other disease.

E. Result of suitable serological test of the juvenile's blood for syphilis taken six weeks or later after birth (please specify test).

F. I examined the juvenile on the …………day of ……………………… , 20 …………..

and I have informed the adopters of the state of health of the juvenile disclosed by the examination.

Signature …………………………………………………………………………………

Address ………………………………………………………………………….……….

Qualification ……………………………………………………………………………..

Hospital at which juvenile is examined …………………………………………………..

PART 3

*General*

18. The juvenile was received into my/our care and possession on the…………………...day

Of ……………….……, 20 …………….. and has been continuously in my/our care and

possession since that date.

19. I/We notified the …………………………………………………………Council on the

…………………… day of ……………………….., 20 …………….of my/our intention

to apply for an adoption order in respect of the juvenile.

20. I have not made/neither of us has made a previous application for an adoption order in respect of the juvenile or (name of applicant) made an application No ………………… to the ………………………………………..Court on the …………………………day of……………………………………………, 20…..which was dealt with as follows—

21. I/We have not received or given any reward or payment for, or in consideration of the adoption of the juvenile or for giving consent to the making of the adoption order except as follows—

22. As far as I/We know, no person or body has taken part in the arrangements for placing the juvenile in my/our care and possession except—

Name …………………………………………………………………………………

FORM 1—*continued*

Address …………………………………………………………………………………..

23. For the purposes of this application reference may be made to………………………….

of ……………………………………………….

24. I/We being desirous of adopting the juvenile apply for an Adoption Order in respect of the juvenile.

………………………….

Signature

DATED this ……………………day of………………………….…………………,20………………

</body> </form>

<form>\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<formtitle> FORM 2 </formtitle>

[Rule 3.]

<body>

1. I understand that an application for an adoption order has been or is to be made in respect of A.B. to whom the birth/adoption certificate now produced and shown to me marked "A" relates (hereafter called the Juvenile) by CD. and E.D. (hereafter called the applicant).

2. I am the mother/father/guardian of the juvenile.

3. I understand that the effect of an adoption order will be to deprive me permanently of my rights as a parent or guardian and to transfer them to the applicant in particular, and I understand that, if an order is made, I shall have no right to see or get in touch with the juvenile or to have the juvenile returned to me.

4. I further understand that the Court cannot make an adoption order without the consent of each parent or guardian of the juvenile unless the court dispenses with a consent on the grounds that the person concerned has abandoned, neglected or persistently ill-treated the juvenile, or cannot be found, or is incapable of giving consent, or is unreasonably withholding consent or has persistently failed without reasonable cause to discharge the obligations of a parent or guardian.

5. I further understand that, when the application for an adoption order is heard, this document may be used as evidence of my consent to the making of the order unless I inform the court that I no longer consent.

6. I hereby consent to the making of the order authorising the adoption of the juvenile by the applicant.

Full Name………………………………………………………………………………...

Address…………………………………………………………………………………..

Signature …………………………………………………………………………………

</body>\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

</form>

<form>

<formtitle>FORM 3 </formtitle>

[Rule 7.]

<body>

To A.B. of ……………………………………………………………………………………………

I hereby give notice that your application for an adoption order to be made in respect of (Name of

juvenile) will be heard before the High Court/Magistrate's Court sitting at …………………………..

on the …………………day of ………………………………..,20………..at………………………. O'clock in the ………………………………………………………..High Court Division/Magisterial

FORM 3—*continued*

District aforesaid and that your attendance (and that of ………………………………………………..

(name of juvenile) is required.

DATED this …………………………day of ……………………………………..,20……………….

……………………………………….

Signature of Registrar

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

</body>

</form>

<form>

<formtitle> FORM 4\*

[Rule 8] </formtitle>

*<body> Notice to Respondent of Application for Adoption order*

I hereby give notice that—

(1) an application has been made by (Name and Address of Applicant) for an adoption order to be made in respect of (identify the juvenile);

(2) the Chief Social Welfare Officer is the guardian *ad litem*;

(3) the application will be heard before the High Court/Magistrate Court sitting at………

on ………………day of………………………………, 20…….at……………...O'clock

in the …………………………..High Court Division/Magisterial District aforesaid and you may then appear and be heard on the question whether an adoption order should be made; OR

\*(3) the application will be heard before the High Court/Magistrate Court sitting at………….

You may appear before the Court and be heard on the question whether an adoption order should be made. If you wish to appear, write to the Registrar of the court at ………………………on or before the …………day of………………….,20………...in order that a time may be fixed for your appearance;

\*(4) while the application is pending, you are not entitled, if you have signified your consent to the making of an adoption order in pursuance of the application to remove the juvenile from the care and possession of the Applicant except with the leave of the court.

DATED this ………………………… day of…………………………………,20…………..

REPLY FORM

To the Registrar of the……………………………………………………………………..High Court/Magistrate's Court (Address)…………………………………………………………………...

…………………………………………………………………………………………………………

I have received notice of the hearing of the application for an adoption order in respect of …………………………………......…………., a juvenile. I do/do not wish to oppose the application.

I do/do not wish to appear and be heard on the question whether an adoption order should be made.

Date ……………………………………………., 20 …… …………………………………….

Signature

Address………………………………………………………………………………………………...

…………………………………………………………………………………………………………

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* The original numbering of the sections has been retained.

FORM 4—*continued*

The second alternative should be struck out except where the applicant desired that his identity should not be disclosed to the person to whom the notice is being given.

\*2. Delete except where the notice is addressed to parent or guardian.

</body> </form>\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<form>

<formtitle>FORM 5

[Rule 12.] </formtitle>

*<body> Adoption Order*

WHEREAS an application has been made by …………………………………………………..

of…………………………………………….…occupation…………………………………………..

(hereafter called the applicant) for an adoption order in respect of …………………………………….

…………………………………. (enter names and surname as shown in Birth Certificate or Adopted

Children Register, or, if not so shown by which juvenile was known before being placed for adoption) a juvenile of the…………………………..sex the child/adopted child of……………………………...

………………………………………..(hereafter called the juvenile).

AND WHEREAS the name and surname by which the Juvenile is to be known are—

…………………………………………………………………………………………………………

\*The second alternative should be struck out except where the Applicant desires that his identity should not be disclosed to the person to whom the notice is given, in which case the first alternative should be struck out.

AND WHEREAS the court is satisfied that the applicant is qualified in accordance with the provisions of the adoption law to adopt the juvenile 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 juvenile.

(And as regards costs, it is ordered that…………………………………………………………)

(And the precise date of the Juvenile's birth not having been proved to the satisfaction of the court, it is determined that the probable date of the juvenile's birth is—

………………………………………………………………………………………………………...)

The country of birth of the juvenile having been proved to the satisfaction of the court, the juvenile shall be treated as having been born in Nigeria, and the particulars of the country of birth shall be omitted from the schedule of this order.

The registration district in which the juvenile was born not having been proved to the satisfaction of the court, the juvenile shall be treated as having been born in the ………………………

…………………………………..registration district.

And it is directed that the Chief Registrar shall make in the Adoption Children Register an entry recording the particulars set out in the Schedule of the law.

And it having been proved to the satisfaction of the court that the juvenile is identical with (…..

………………………………………………………………………………………………………...)

to whom the entry number ……………………..made on the …………………………………day of

………………….………, 20 …………………in the Register of Births for the registration district of

…………………………to whom the entry numbered,………………………………………………..

made on the ……………….day of……………………………., 20………….in the adopted Children

Register relates)it is directed that the said entry in the Register of Births be marked with the word "Adopted" and the Adopted Children Register be marked with the word Re-adopted".

………………………………

*Signature of Registrar*

</body> </form>\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<form>

<formtitle>

FORM 6

[Rule 13.] </formtitle>

*<body> Adoption Order (Abridged)*

WHEREAS an application has been made by …………………………………………………..

of ………………………………………………………………………(hereafter called the applicant)

for an adoption order in respect of………………………………………………………...(enter names

and surname as shown in Birth Certificate or the Adopted Children Register or if not shown, by which juvenile was known before being placed for adoption) hereinafter called the juvenile).

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

And it is directed that the Chief Registrar shall make in the Adopted Children Register an entry according to the particulars set out in the Schedule to the Law.

DATED this …………………day of……………………………………..,20 ……………......

…………………………………………..

*Registrar*

</body> </form>\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<form>

<formtitle> FORM 7

[Rule 14.] </formtitle>

*<body> Interim Order*

WHEREAS an application has been made by…………………………………………………of

………………………………………………………(hereinafter called the applicant) for an adoption

order in respect of (enter names and surname of juvenile as shown in birth certificate or the Adopted Children Register or if not so shown by which juvenile was known before placed for adoption), a juvenile of the ……………………………………………………sex (hereinafter called the juvenile).

AND WHEREAS the court is satisfied that the applicant is qualified in accordance with the provisions of the Adoption Law to adopt the juvenile 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 custody of the juvenile until ……………….day of ……………………………, 20………….

by way of a probationary period. (On the following terms namely: …………………………………...)

…………………………………………………………………………………………………………

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

FORM 7—*continued*

(And that the application shall be further heard on ……………………………………………………)

DATED this …………………………………day of …………………….,20…………………

…………………………………………

*Registrar*

Provision may be made for the maintenance, education and supervision of the welfare of the juvenile and otherwise.

</body>

</form>

</forms>

</schedule>\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<schedule>

<header> SECOND SCHEDULE

[Rule 6.] </header>

*<lawtitle> Particulars, Duties of Guardian ad litem </lawtitle>*

<section>

**<body>1.** The guardian *ad litem* shall interview the applicant and shall ascertain—

(*a*) particulars of all members of the applicant's household and their relationship (if any) to the applicant;

(*b*) particulars of the accommodation in the applicant's home and the condition of the home;

(*c*) the means of the applicant;

(*d*) whether the applicant suffers or has suffered from any serious illness and whether there is any history of tuberculosis, epilepsy or mental illness in the applicant's family;

(*e*) in the case of an application by one only of two spouses, why the other spouse does not join in the application;

(*f*) whether any person specified in the application as a person to whom reference may be made is a reasonable person and whether he recommends the applicant with or without reservations;

(*g*) whether the applicant understands the nature of an adoption order and in particular, that the order, if made will render him responsible for the maintenance and up-bringing of the juvenile.

</body>

</section>

<section>

<body>

**2.** The guardian *ad litem* shall ascertain and inform the applicant—

(*a*) as regards the religious background of the juvenile;

(*b*) what treatment the juvenile has received with a view to immunising him against diseases;

(*c*) whether the juvenile has any right to, or interest in, any property;

(*d*) whether an insurance policy for the payment on the death of the juvenile or money for funeral expenses has been effected.

</body>

</section>

<section>

<body>

**3.** (1) The guardian *ad litem* shall, as soon as is reasonably practicable, ascertain whether the juvenile is able to understand the nature of an adoption order.

(2) If the guardian *ad litem* is of the opinion that the juvenile is able to understand the nature of an adoption order, he shall forthwith inform the court of his opinion and ascertain whether the juvenile wishes to be adopted by the applicant.

</body>

</section>

<section>

<body>

4. The guardian *ad litem* shall interview either in person or by an agent appointed by him for that purpose—

(*a*) every individual who is a respondent to the application; and

(*b*) every individual who appears to him to have taken part in the arrangements for the adoption of the juvenile.

</body>

</section>

<section>

<body>

**5.** (1) The guardian *ad litem* shall obtain from every respondent to the application, not being an individual such information concerning the Juvenile as they have in their possession and which they consider might assist the Court in deciding whether or not the juvenile should be adopted by the applicant.

(2) Where such information is given in the form of a written report, the guardian *ad litem* shall append it to his own report to the court.

</body>

</section>

<section>

<body>

**6.** The guardian *ad litem* shall ascertain when the mother of the juvenile ceased to have the care and possession of the juvenile and to whom the care and possession was transferred.

</body>

</section>

<section>

<body>

**7.** The guardian *ad litem* shall ascertain that every consent to the making of an adoption order authorising the adoption of the juvenile by the applicant is freely given and with full understanding of the nature of an adoption order.

</body>

</section>

<section>

<body> **8.** If either parent of the juvenile is dead, the guardian *ad litem* shall forthwith inform the court if he learns of any relation of the deceased parent who wishes to be heard by the court on the question whether an adoption order should be made. </body> </section>

**<section> <body>9.** Where the juvenile is illegitimate, but no one is liable as the putative father to contribute to his maintenance by virtue of any order or agreement, the guardian *ad litem* shall forthwith inform the court if he learns of any person claiming to be the father who wishes to be heard by the court on the question whether an adoption order should be made. </body> </section>

**<section> <body> 10.** The guardian *ad litem* shall forthwith inform the court if he learns of any other person or body who wishes, or ought in his opinion, to be heard by the court on the question whether an adoption order should be made. </body> </section>

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</chapter>