

Seychelles

Children Act

## Children (Adoption) Rules

Statutory Instrument 45 of 1964

Legislation as at 11 July 2016

FRBR URI: /akn/sc/act/si/1964/45/eng@2016-07-11

There may have been updates since this file was created.

PDF created on 21 February 2024 at 16:22.

*Collection last checked for updates: 30 June 2014.*

[Check for updates](#)



### About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

[www.laws.africa](http://www.laws.africa)  
[info@laws.africa](mailto:info@laws.africa)

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

## Children (Adoption) Rules

### Contents

Rule 1. – Short title .....	1
Rule 2. – Interpretation .....	1
Rule 3. – Commencement of proceedings .....	1
Subrule (1) .....	1
Subrule (2) .....	1
Rule 4. – Medical certificate as to applicant's health .....	1
Rule 5. – Medical report of health of child .....	2
Subrule (1) .....	2
Subrule (2) .....	2
Rule 6. – Document signifying consent in what form and how attested .....	2
Subrule (1) .....	2
Subrule (2) .....	2
Subrule (3) .....	2
Paragraph (a) .....	2
Paragraph (b) .....	2
Paragraph (c) .....	2
Paragraph (d) .....	2
Subrule (4) .....	2
Paragraph (a) .....	2
Paragraph (b) .....	2
Rule 7. – Court may refuse to proceed with application when previous application dismissed .....	2
Rule 8. – Appointment of guardian ad litem .....	2
Subrule (1) .....	2
Subrule (2) .....	2
Subrule (3) .....	3
Rule 9. – Duties of guardian ad litem .....	3
Subrule (1) .....	3
Paragraph (a) .....	3
Paragraph (b) .....	3
Subrule (2) .....	3
Subrule (3) .....	3
Rule 10. – Fixing time for hearing .....	3
Rule 11. – Notice of hearing to be served on applicant, when attendance of infant required .....	3
Subrule (1) .....	3

Subrule (2) .....	3
Rule 12. – Notice of hearing to be served on certain other persons who shall be respondents to the application .....	3
Subrule (1) .....	3
Paragraph (a) .....	3
Paragraph (b) .....	3
Subrule (2) .....	3
Rule 13. – Personal attendance of applicant before the court .....	3
Rule 14. – Personal attendance of infant .....	4
Paragraph (a) .....	4
Paragraph (b) .....	4
Rule 15. – Proceedings to be held in chambers unless court otherwise orders .....	4
Rule 16. – Consent of the President .....	4
Subrule (1) .....	4
Subrule (2) .....	4
Rule 17. – Fixing time for further hearing when interim order made .....	4
Subrule (1) .....	4
Subrule (2) .....	4
Rule 18. – Copy of adoption order to be sent to Chief Officer of the Civil Status .....	4
Rule 19. – Order as to costs .....	4
Paragraph (a) .....	4
Paragraph (b) .....	4
Rule 20. – Information obtained in course of proceedings to be treated as confidential .....	4
Rule 21. – Service how effected .....	5
Rule 22. – Chapter 218 to apply in certain respects .....	5
Rule 23. – Copies of notices to be served on guardian ad litem .....	5
Rule 24. – Forms of adoption and interim orders .....	5
Rule 25. – Forms in First Schedule .....	5
Rule 26. – Particulars of adoption order .....	5
Subrule (1) .....	5
Subrule (2) .....	5
Subrule (3) .....	5
Rule 27. – Directions on marking of registers .....	5
Subrule (1) .....	5
Subrule (2) .....	5
Rule 28. – Amendment, revocation etc. of adoption order .....	6

Subrule (1) .....	6
Subrule (2) .....	6
Subrule (3) .....	6
Schedule .....	6
Second schedule .....	6

# Seychelles

## Children Act

# Children (Adoption) Rules

## Statutory Instrument 45 of 1964

Commenced on 31 August 1964

*[This is the version of this document at 11 July 2016.]*

*[S.I 45 of 1964; S.I 29 of 1966; S.I 52 of 1982; S.I 6 of 1985]*

*[Note: These rules were made under the repealed Adoption Act (Cap 87) (1971 Ed.) and are continued in force by section 110(2) of the Children Act ([Cap. 28](#)). Section 110 was a savings provision which was omitted from the 1991 Ed.]*

### 1. Short title

These rules may be cited as the Children (Adoption) Rules.

### 2. Interpretation

In these rules the following expressions have the meanings hereby assigned to them unless the context otherwise requires

"**application**" means an application for an adoption order and applicant shall be construed accordingly;

"**child**" means the child whom the applicant is applying to adopt;

"determination of application" includes a withdrawal of the application;

"**interim order**" means an order made under section 45(1) of the Children Act;

"**the court**" means the Supreme Court;

"**Registrar**" means the Registrar of the Supreme Court;

"**regular armed forces of the Crown**" means the Royal Navy, the regular forces as defined by section 225 of the Army Act, 1955, the regular air force as defined by section 223 of the Air Force Act, 1955, the Women's Royal Naval Service, Queen Alexandra's Royal Naval Nursing Service and Voluntary Aid Detachments serving with the Royal Navy.

### 3. Commencement of proceedings

- (1) An application shall be in Form 1 and shall be made to the court by filing it with the Registrar together with all documents referred to in the application as attached thereto. The applicant shall supply to the Registrar a copy of his application.
- (2) If any person proposing to apply to the court for an adoption order desires that his identity be kept confidential, he may, before making his application apply to the Registrar for a serial number to be assigned to him for the purposes of the proposed application and a number shall be assigned to him accordingly.

### 4. Medical certificate as to applicant's health

Except where the applicant, or one of the applicants, is the father or mother of the child every applicant shall supply to the Registrar at the time he files his application the certificate of a registered medical practitioner as to his health. For the purposes of such certificate Form 2 may be used.

## 5. Medical report of health of child

- (1) A report on the health of the child which is to be used for the purposes of an application shall be supplied by the applicant to the Registrar at the time he files his application.
- (2) The report may if the applicant so desires be in Form 3.

## 6. Document signifying consent in what form and how attested

- (1) A document signifying the consent of any person to the making of an adoption order for the purposes of section 40(1) of the Children Act shall be in the Form in Schedule 1 to that Act.
- (2) If the said document is executed in Seychelles it shall be sufficiently attested for the purposes of section 41(1) of the Children Act if it is attested by any of the following persons namely, a Judge, a Magistrate, a Justice of the Peace, a Notary or the Registrar.
- (3) If the said document is executed outside Seychelles it shall be sufficiently attested for the purposes of section 41(1) of the Children 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 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 those forces.
- (4) Subject to rule 7 the court may notwithstanding paragraphs (2) and (3)
  - (a) on the request of the prospective applicant or the Director, in either case before an application is made; or
  - (b) in any other case as soon as possible after an application is made, appoint a person to act as reporting officer in terms of section 49(1)(b) of the Children Act, for the purpose of witnessing agreements to the adoption in terms of section 41 of and Schedule 1 to that Act.

## 7. Court may refuse to proceed with application when previous application dismissed

If it appears that the applicant has previously made an application in respect of the same child to the court, and that the court, 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 a substantial change in the circumstances since the previous application.

## 8. Appointment of guardian *ad litem*

- (1) Subject to the provisions of rule 7 the court shall, as soon as practicable after an application is made, appoint a guardian *ad litem* to the child and shall furnish him with a copy of the application, together with the documents attached thereto or filed at the same time as the application.
- (2) The person appointed guardian *ad litem* shall be the Attorney General, if he consents. If the Attorney General does not consent to act as guardian *ad litem* or if the applicant desires that some other person should be appointed to act as guardian, the applicant must ask for the appointment of a guardian *ad litem* in his application. The court must thereupon appoint as guardian *ad litem* some other person who appears to it to be suitably qualified.

Provided that no person shall be appointed guardian *ad litem* if he has taken part in the arrangements for the adoption of the child.

- (3) Where the Attorney General is appointed guardian *ad litem* he may carry out his duties and appear before the court personally or by any other law officer of the Republic.

## **9. Duties of guardian *ad litem***

- (1) With a view to safeguarding the interests of the child before the court the guardian *ad litem* shall, so far as is reasonably practicable
  - (a) investigate all circumstances relevant to the proposed adoption, including the matters alleged in the application and those specified in the Second Schedule to these Rules; and
  - (b) perform such other duties as are specified in the said Schedule or as the court may direct.
- (2) On completing his investigation the guardian *ad litem* shall make a confidential report in writing to the court.
- (3) 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 necessary.

## **10. Fixing time for hearing**

At the time of appointing the guardian *ad litem* the court shall fix a time for the hearing of the application.

## **11. Notice of hearing to be served on applicant, when attendance of infant required**

- (1) When the time for the hearing of the application has been fixed the Registrar shall cause a notice of the time of hearing to be served on the applicant.
- (2) If the guardian *ad litem* reports to the court that in his opinion the child is able to understand the nature of an adoption order the Registrar shall inform the applicant that the personal attendance of the child at the hearing of the application is required.

## **12. Notice of hearing to be served on certain other persons who shall be respondents to the application**

- (1) When the time for the hearing of the application has been fixed the Registrar shall cause to be served a notice of the time of hearing on the following persons
  - (a) every person, not being an applicant, whose consent to the making of an adoption order is required under section 40(1) of the Children Act;
  - (b) any other person not being the child 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 the foregoing provisions of this rule shall be a respondent to the application.

## **13. Personal attendance of applicant before the court**

The court shall not make an adoption order or an interim order except 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 if the application is verified by a declaration made by that applicant and attested as set out in rule 6(2), (3) or (4).

**14. Personal attendance of infant**

If the applicant has been informed that the personal attendance of the child at the hearing is required the court shall not make an adoption order or an interim order unless

- (a) the child has so attended or the court decides that there are special circumstances making his attendance unnecessary; and
- (b) the court is satisfied that the child has been informed of the nature of the order.

**15. Proceedings to be held in chambers unless court otherwise orders**

Every application shall be heard and determined in chambers unless the court orders otherwise.

**16. Consent of the President**

- (1) Where an application for adoption is made by a married couple both of whom are not resident in Seychelles or by a person who is not resident in Seychelles, the Supreme Court shall, where it is satisfied that it is in the best interests of the child that the application shall be allowed, forward the application and the affidavits filed in support of such application to the President for the exercise of his powers under section 37(2) or section 38(2) of the Children Act.
- (2) A document signifying the consent of the President under section 37(2) or section 38(2) of the Children Act, shall be in Form 6.

**17. Fixing time for further hearing when interim order made**

- (1) Where the determination of an application is postponed and an interim order is 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 been in custody of the child in accordance with the interim order and whether or not the applicant makes an application for the purpose, fix a time for the further hearing of the application.
- (2) On fixing a time for the further hearing of the application the court shall cause to be served on the applicant and on each respondent to the application a notice of the time of the further hearing.

**18. Copy of adoption order to be sent to Chief Officer of the Civil Status**

Within seven days after the making of an adoption order the Registrar shall send a copy of the order to the Chief Officer of the Civil Status.

**19. Order as to costs**

On the determination of an application or on the making of an interim order the court may make such order as to costs as it thinks just, and in particular may order the applicant to pay

- (a) out of pocket expenses incurred by the 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.

**20. Information obtained in course of proceedings to be treated as confidential**

Any information obtained by any person in the course of, or relating to, proceedings under Part V of the Children Act shall be treated as confidential and shall not be disclosed by him except so far as may be necessary for the proper execution of his duty.



**21. Service how effected**

Unless otherwise directed, service of a document under these rules on any person may be effected by delivering it to him or by sending it by post to him at his last known or usual place of abode.

**22. Chapter 218 to apply in certain respects**

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 under the Seychelles Code of Civil Procedure, and accordingly for the purposes of this rule the application shall be deemed to be a plaint, the applicant to be a plaintiff, the respondents to be defendants and any notice served under the rules to be a summons.

**23. Copies of notices to be served on guardian *ad litem***

The court shall cause to be served on the guardian *ad litem* a copy of every notice served on an applicant or respondent.

**24. Forms of adoption and interim orders**

When the court makes an adoption order or an interim order Form 4 and Form 5 may respectively be used with such variation as the circumstances may require.

**25. Forms in First Schedule**

In these rules a form referred to by number means the form so numbered in the First Schedule to these rules or a form to the like effect, and any such form may be used with such variation as the circumstances may require.

**26. Particulars of adoption order**

- (1) Where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and shall specify that date in the adoption order as the date of his birth.
- (2) Where the first name or names or surname which the child is to bear after the adoption differs from his original first name or names or surname, the new first name or names or surname shall be specified in the adoption order instead of the original.
- (3) Where the country of birth of the child is not proved to the satisfaction to the court, the particulars of that country may be omitted from the adoption order.

**27. Directions on marking of registers**

- (1) Where on an application for an adoption order there is proved to the satisfaction of the court the identity of the child (not being a child who has previously been the subject of an adoption order made by the court under the Adoption Act or the Children Act,) with a child to whom an entry in the Register of Births relates, any adoption order made by the Court shall contain a direction to the Chief Officer of the Civil Status to cause the entry in the Register of Births to be marked with the word "Adopted".
- (2) Where an adoption order is made by the court in respect of a child who has previously been the subject of an adoption order under the Adoption Act or the Children Act, the order shall contain a direction to the Chief Officer of the Civil Status to cause the previous entry in the Adopted Children Register to be marked with the word "Re adopted".

## 28. Amendment, revocation etc. of adoption order

- (1) Where the court amends an adoption order under section (4) of the Children Act, it shall cause that amendment to be communicated to the Chief Officer of the Civil Status.
- (2) Where an adoption order is quashed or revoked or an appeal against an adoption order allowed, the court shall give directions to the Chief Officer of the Civil Status to cancel any marking of an entry in the Register which was made under that order.
- (3) A copy or extract of an entry in the Adopted Children Register or the Register of Births marking of which is cancelled under this rule, is not deemed to be an accurate copy unless both the marking and the cancellation are omitted from it.

## Schedule

### Rule 3

Application for an adoption order (CH002. pdf): [greybook https://www.seylii.org/greybook](https://www.seylii.org/greybook)

Medical certificate as to health of applicant (CH003. pdf): [greybook https://www.seylii.org/greybook](https://www.seylii.org/greybook)

Medical report on health of child (CH004. pdf): [greybook https://www.seylii.org/greybook](https://www.seylii.org/greybook)

Adoption order (The Children Act, section 33 (CH005. pdf): [greybook https://www.seylii.org/greybook](https://www.seylii.org/greybook)

Interim, order (The Children Act, section 45) (CH006. pdf): [greybook https://www.seylii.org/greybook](https://www.seylii.org/greybook)

Consent of President to an adoption order (CH007. pdf): [greybook https://www.seylii.org/greybook](https://www.seylii.org/greybook)

## Second schedule

### Rule 9

#### Particular duties of the guardian *ad litem*

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 responsible 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 upbringing of the child.
2. The guardian *ad litem* shall ascertain and inform the applicant—
  - (a) whether the child has been baptised and, if so, the date and place of baptism;

- (b) what treatments the child has received with a view to immunising him against disease;
  - (c) whether the child has any right to, or interest in, any property.
3. The guardian *ad litem* shall ascertain whether the child is able to understand the nature of an adoption order and, if he is, whether he wishes to be adopted by the applicant.
  4. The guardian *ad litem* shall interview either in person or by an agent appointed by him for the purpose every individual to whom notice is required to be given under rule 12 or who appears to the guardian *ad litem* to have taken part in the arrangements for the adoption of the child.
  5. The guardian *ad litem* shall ascertain when the mother of the child ceased to have the care and possession of the child and to whom the care and possession was transferred.
  6. The guardian *ad litem* shall ascertain that every consent to the making of an adoption order in pursuance of the application is freely given and with full understanding of the nature and effect of an adoption order.
  7. Where either parent of the child is dead, the guardian *ad litem* shall 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.
  8. Where the child is illegitimate but no one is liable as the putative father to contribute to the maintenance of the child by virtue of any order or agreement, the guardian *ad litem* shall 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.
  9. The guardian *ad litem* shall 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.
  10. Where the applicant is not ordinarily resident in Seychelles, the guardian *ad litem* shall endeavour to obtain a report on the applicant's home and living conditions from a suitable agency in the country in which he is ordinarily resident.