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ADOPTION ACT

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CHAPTER 3

AN ACT to make provision for the adoption of infants Cap. 5—1958
Acts
36 of 1964
23 of 1974
[8th October, 1955]

1. This Act may be cited as the Short title
ADOPTION ACT.

2. In this Act— Interpretation
“adoption order” has the meaning assigned to it by section 3;
“body of persons” means any body of persons whether incorporated or unincorporated;
“court” means a court having jurisdiction to make adoption orders under this Act;
“father”, in relation to an illegitimate infant, means the natural father;
“guardian”, in relation to an infant, means a person appointed by deed or will, or by a court to be the guardian of the infant;
“infant” means a person under twenty-one years of age, but does not include a person who is or has been married;
“Registrar” means the Registrar of Births and Deaths;
“relative”, in relation to an infant, means a grandparent, 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 under this Act, 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 person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of his mother and father.

Power to
make
adoption
orders

3. (1) Subject to the provisions of this Act, the court may upon an application made in the prescribed manner by a person domiciled in Grenada make an order (in this Act referred to as an adoption order) authorizing the applicant to adopt an infant.

(2) An adoption order may be made on the application of two spouses authorizing them jointly to adopt an infant.

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

Restrictions
on making
orders

4. (1) An adoption order shall not be made in respect of an infant 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; 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 respect of an infant who is a female in favour of a sole applicant who is a male, unless the court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

(3) Except as provided by section 3(2), an adoption order shall not be made authorizing more than one person to adopt an infant.

(4) Subject to the provisions of section 6 of this Act, an adoption order shall not be made—

- (a) in any case, 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;

(b) on the application of one of two spouses, except with the consent of the other spouse.

(5) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in Grenada, nor in respect of any infant who is not resident in Grenada.

(6) An adoption order shall not be made in respect 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.

5. Notwithstanding anything contained in this Act, when one of the applicants is a parent or relative the provisions of section 4 are modified to the extent that subsection (5) shall not apply in relation to the requirements of residence and that subsection (6) shall not apply with respect to the making of an adoption order.

Modifications
to section 4
in certain
cases

6. (1) The court may dispense with any consent required by paragraph (a) of section 4(4) if it is satisfied—

Consent to
adoption

- (a) in the case of a parent or guardian of the infant, that he has abandoned, neglected or persistently ill-treated the infant;
- (b) in the case of a person liable by virtue of an order or agreement 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 court may dispense with the consent of the spouse of an applicant for an adoption order if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving the consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(3) The consent of any person to the making of an adoption order in pursuance of an application (not being the consent of the infant) 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.

(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.

Evidence of
consent of
parent or
guardian

7. (1) Where any person whose consent to the making of an adoption order is required by paragraph (a) of section 4(4) does not attend in the proceedings for the purpose of giving it, then, subject to the provisions of subsection (3) of this section, 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 in the document or (where the identity of that person is not known to the consenting party) is distinguished therein in the prescribed manner, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings.

(2) Where any such document is attested by a Justice of the Peace of Grenada, the document shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed; and for the purposes of this subsection, a document purporting to be attested as aforesaid 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.

(3) A document signifying the consent of the mother of an infant shall not be admissible under this section 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.

8. (1) The court before making an adoption order shall be satisfied—

Functions of court as to adoption orders

- (a) that every person whose consent is necessary under this Act, and whose consent is not dispensed with, has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of any parent understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights;
- (b) that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant, having regard to the age and understanding of the infant; and
- (c) that the applicant has not received or agreed to receive, and that no person has made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the court may sanction.

(2) 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 infant such provision (if any) as in the opinion of the court is just and expedient.

9. (1) Subject to the 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 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 of the welfare of the infant and otherwise as the court may think fit.

Interim orders

(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.

(3) An interim order shall not be made in any case where the making of an adoption order would be unlawful by virtue of section 4(6).

(4) An interim order shall not be deemed to be an adoption order within the meaning of this Act.

Orders in
respect of
infants
previously
adopted

10. (1) 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.

(2) In relation to an application for an adoption order in respect of such an infant, the adopter or adopters under the previous or last previous adoption order shall be deemed to be the parent or parents of the infant for all the purposes of this Act.

Jurisdiction
and
procedure

11. (1) The court having jurisdiction to make adoption orders under this Act shall be the High Court.

(2) Rules in regard to any matter to be prescribed under this Act and directing the manner in which applications to the court are to be made and dealing generally with all matters of procedure and incidental matters arising out of this Act and for carrying this Act into effect shall be made by the Chief Justice.

(3) Such rules may provide for applications for adoption orders being heard and determined otherwise than in open court.

(4) For the purpose of any application under this Act and subject to any rules under this section, the court shall appoint some person or body to act as guardian *ad litem* of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the court.

Rights and
duties of
parents and
capacity to
marry

12. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the infant in relation to the future custody, maintenance and education of the infant, including all rights to appoint a guardian and to consent or give notice of dissent to marriage, shall be extinguished and all such rights, duties, obligations, and liabilities shall vest in and be exercisable by and enforceable against the adopter as if the infant were a child born to the adopter in lawful wedlock; and in respect of the matters aforesaid the infant shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.

(2) In any case where two spouses are the adopters, the 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 infant in the same relation as they would have stood if they had been the lawful father and mother of the infant and the infant shall stand to them respectively in the same relation as to a lawful father and mother respectively.

(3) For the purpose of the law relating to marriage, an adopter and the person whom he has been authorized to adopt under an adoption order 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 authorized by a subsequent order to adopt the same infant.

13. (1) For the purposes of the enactments for the time being in force relating to friendly societies, collecting societies and industrial insurance companies, which enable such societies and companies to insure money to be paid for funeral expenses and which restrict the persons to whom money may be paid on the death of a child under the age of ten, an adopter shall be deemed to be the parent of the infant whom he is authorized to adopt under an adoption order.

Industrial insurance, etc.

(2) Where, before the making of an adoption order in respect of an infant, any such insurance has been effected by the natural parent of the infant, the rights and liabilities under the policy shall by virtue of the adoption order be transferred to the adopter, and the adopter shall for the purposes of the said enactments be treated as the person who took out the policy.

14. (1) Where an adoption order is made in respect of an infant who is illegitimate, then, subject to the provisions of this section, any affiliation order or decree of affiliation and aliment 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 order, decree or agreement at the date of the adoption order.

Affiliation orders

(2) Where an infant to whom any such order, decree or agreement as aforesaid relates is adopted by his mother, and

the mother is a single woman, the order, decree or agreement shall not cease to have effect by virtue of the foregoing subsection upon the making of the adoption order, but shall cease to have effect if she subsequently married.

Intestacies,
wills and
settlements

15. (1) Where, at any time after the making of an adoption order, the adopter or the adopted person of any other person dies intestate in respect of any real or personal property (other than property subject to an entailed interest under a disposition made before the date of the adoption order), 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.

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

- (a) any reference (whether express or implied) to the child or children of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to the adopted person;
- (b) any reference (whether express or implied) to the child or children of the adopted person's natural parents or either of them shall, unless the contrary intention appears, be construed as not being or as not including a reference to the adopted person; and
- (c) any reference (whether express or implied) to a person related to the adopted person in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him in that degree if he were the child of the adopter born in lawful wedlock and were not the child of any other person.

Adopted
Children
Register

16. (1) The Registrar shall establish and maintain at his office 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) Every adoption order shall contain a direction to the Registrar to make in the Adopted Children Register an entry recording the adoption in the form set out in the Schedule.

(3) If upon any application for an adoption order there is proved to the satisfaction of the court—

- (a) the date of the birth of the infant; and
- (b) the identity of the infant with a child to which any entry or entries in the Register of Births relates,

the adoption order shall contain a further direction to the Registrar to cause such birth entry or entries in the Register of Births to be marked with the word "Adopted" and to include in the entry in the adoption register recording the adoption the date stated in the order of the adopted child's birth in the manner indicated in the Schedule.

(4) The prescribed officer of the court shall cause every adoption order to be communicated in 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 making any entry in the Register of Births with the word "Adopted" and in regard to making the appropriate entry in the Adopted Children Register.

(5) A certified copy of any entry in the Adopted Children Register if purporting to be sealed or stamped with the seal of the Registrar's office 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 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 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.

(6) The Registrar shall cause an index of the Adopted Children Register to be made and kept in his office, and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register in all respects, upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are

applicable under the laws for the time being in force in respect of searches in other indexes kept in such office, and in respect of the supply from such office of certified copies of entries in the respective Registers of Births and Deaths.

Amendment
of orders
and rectifi-
cation of
registers

17. (1) The court by which an adoption order has been made under this Act 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.

(2) 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.

Prohibition
of certain
payments

18. (1) It shall not be lawful for an adopter, or for a parent or guardian of an infant, to receive, except with the sanction of the court, any payment or other reward in consideration of the adoption of the infant under this Act, or for any person to make or give or agree to make or give to an adopter, parent or guardian any payment or reward the receipt of which is prohibited by this subsection.

(2) Subject to the provisions of subsection (3), any person who makes arrangements for the adoption of an infant and receives or makes, or agrees to receive or make, any payment or reward whatsoever in connection with the making of the arrangements shall be guilty of an offence and liable, on summary conviction, to imprisonment for six months and to a fine of ten thousand dollars.

(3) The provisions of subsection (2) shall not apply to any payments the making or receipt of which is sanctioned by the court to which an application for an adoption order in respect of an infant is made.

SCHEDULE

(Section 16)

1 No. of entry	2 Date of entry	3 Name of adopted child. (Enter name as stated in Adoption Order)	4 Sex of adopted child. (Enter sex as stated in Adoption Order)	5 Name and surname, address and occupation of adopter or adopters. (Enter name, address and occupation as stated in Adoption Order)	6 Date of birth of child. (Enter date of birth directed by the Adoption Order to be entered, but otherwise no entry)	7 Date of Adoption Order (Entry to be made as appearing in the Adoption Order)	8 Signature of officer deputed by Registrar to attest the entry