STATUTORY INSTRUMENTS

1973 No. 1541 (L.26)

CHILDREN AND YOUNG PERSONS

The Adoption (County Court) (Amendment) Rules 1973

Made - - - - 4th September 1973

Coming into Operation 1st October 1973

The Lord Chancellor, in exercise of the powers conferred on him by section 9 of the Adoption Act 1958(a), as amended by section 54 of the Children and Young Persons Act 1963(b), and sections 2(2) and 3(2) of the Welsh Language Act 1967(c), hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Adoption (County Court) (Amendment) Rules 1973 and shall come into operation on 1st October 1973.

(2) In these Rules—

"Welsh court" means any court sitting in Wales or Monmouthshire which has jurisdiction to make an adoption order;

a rule referred to by number means the rule so numbered in the Adoption (County Court) Rules 1959(d), as amended(e), and a form referred to by number means the form so numbered in Schedule 1 to those Rules.

(3) The Interpretation Act 1889(f) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

2. The following paragraph shall be added to rule 5:—

"(3) Where a parent or guardian of the infant has not signified or has withdrawn his consent to the making of an adoption order and the applicant intends to request the court to dispense with such consent on any of the grounds specified in section 5 of the Adoption Act 1958, the request shall, unless otherwise directed, be made in the originating application, or, if made subsequently, by notice to the registrar, and there shall be attached to the originating application or notice a statement of the facts on which the applicant intends to rely."

3. In rule 8(2) and (3) (appointment of guardian *ad litem*) for the words "children's officer" wherever they occur there shall be substituted the words "director of social services".

4. Rule 10 shall stand as paragraph (1) of that rule and the following paragraph shall be added at the end:—

"(2) Where a request has been made to the court to dispense with the con-

(a) 7 & 8 Eliz. 2 c. 5.
(b) 1963 c. 37.
(c) 1967 c. 66.
(d) S.I. 1959/480 (1959 I, p. 611).
(e) S.I. 1965/2070 (1965 III, p. 6090).
(f) 1889 c. 63.

sent of a parent or guardian in accordance with the provisions of rule 5(3), the registrar shall inform the parent or guardian of the request to dispense with his consent, and shall send to him a copy of the statement referred to in rule 5(3), omitting in a case where a serial number has been assigned to the applicant under rule 2 any reference to the applicant other than by that serial number.

If the request is made by notice to the registrar, the registrar shall also send a copy of the notice, and of the statement referred to in rule 5(3), to the guardian *ad litem.*".

5. In rule 17, for paragraph (2) there shall be substituted the following paragraph:—

"(2) An affidavit as to that law sworn by a person who is suitably qualified on account of his knowledge or experience to give expert evidence as to that law shall, if filed with the originating application, be admissible without any such notice as is required by Order 20, Rule 5, of the County Court Rules**(a)**, as amended **(b)**, having been given.".

6. For rule 20 there shall be substituted the following rule:—

"20.—(1) Subject to paragraphs (2) and (3) of this rule, an adoption order shall be drawn up in Form 9.

(2) Where an adoption order is made by a Welsh court in respect of an infant who was born in Wales or Monmouthshire (or who is treated for the purposes of section 21(3) of the Adoption Act 1958 as born in the registration district and sub-district in which that court sits) and the adopter so requests before the order is drawn up, the Schedule in Form 9W shall be used in place of the Schedule contained in Form 9.

(3) Where, in accordance with paragraph (2) of this rule, the Schedule in Form 9W is used, the adoption order shall specify in both English and Welsh the particulars to be entered under the headings in entries 2 to 6 of that Schedule, and, in the case of any discrepancy between the English and Welsh text of any such particulars, the English text shall prevail.

(4) Within seven days after the making of an adoption order the registrar shall send a copy of the order to the Registrar General.

(5) Subject to paragraph (6) of this rule, within seven days after the making of an adoption order the registrar shall deliver or send an abridged copy of the order in Form 10 to the applicant.

(6) Where, in accordance with paragraph (2) of this rule the adoption order contains a Schedule in Form 9W, the copy of the order required to be delivered or sent to the applicant under paragraph (5) of this rule shall contain a Schedule in that form instead of in the form contained in Form 10, and paragraph (3) of this rule shall have effect in relation to the copy as it has effect in relation to the order.".

(a) S.R. & O. 1936/626 (1936 I, p. 282). **(b)** S.I. 1950/1231 (1950 I, p. 400).

7. Form 1 shall be amended as follows:—

In paragraph 12 after the words "on the ground that . . . . . [15]" there shall be added the words "and I/we attach a statement setting out the facts on which I/we rely.".

8. Form 2 shall be amended as follows:—

(1) For the words "And further take notice that", where they first appear, there shall be substituted the words "C [That".

(2) For the words "And further take notice that", in the second place where they appear, there shall be substituted the words "D [That", and at the end of the same paragraph there shall be inserted the words "and a statement of the facts on which the applicant intends to rely is attached.".

(3) At the end of Note [5] there shall be added the words "Where a serial number is specified in the originating application the statement of facts must not refer to the applicant except by serial number.".

9. Form 4 shall be amended as follows:—

For paragraph E there shall be substituted the following paragraph:—

"E.— (i) (*To be completed in the case of a child at least six weeks old at the time of the test—either test (a) or tests (b)(i) and (ii) may be carried out except where test (b)(i) or (ii) is positive, when test (a) must also be carried out*)

(*a*) Result of a suitable serological test of the child's blood for syphilis (please specify test) . . .

(*b*) Result of suitable serological tests of the mother's blood for syphilis—

(i) Reagin (please specify test) . . .

(ii) Verification (please specify test) . . .

(ii) (*To be completed in the case of a child over six complete days (excluding the day of his birth) and under two years old at the time of the test*)

Result of test of the child's blood for the purpose of estimating the level of phenylalanine therein. . . ".

10. The Schedule and Notes [3]-[9] to Form 9 shall be omitted, and after Note [2] there shall be added the following Schedule and Notes:—

SCHEDULE

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

Notes to Paragraphs in the Schedule

1. *No. of entry.*
7. *Date of entry.*
8. *Signature of officer.*

} for completion by the Registrar General.

2. *Date and country of birth.* Where the precise date and country of the infant's birth are not proved, enter the date determined by the court to be the probable date. The particulars of the country of birth may be omitted unless it appears probable that the infant was born within the United Kingdom, the Channel Islands or the Isle of Man. In that event enter England or Wales, as the case may be, as the country of birth.

Where the infant was born in England or Wales but the registration district and sub-district in which the birth took place are not proved, or where the infant is treated as born in England or Wales, enter the district and sub-district in which the court sits.

3. *Name and Surname.* Enter the name or names and surname stated in Form A.C.A.1 as those by which the infant is to be known or, if no name or surname is so stated, the original name or names of the infant and the surname of the applicant.

4. *Sex.* Enter "Male" or "Female", as the case may be.

5. *Name etc. of adopters.* If the applicant is not ordinarily resident in Great Britain enter the place abroad where he ordinarily resides.

6. *Date of Order, etc.* In the case of a provisional adoption order enter the words "Provisional Adoption Order" followed by the date of the order and the name of the court.

11. After Form 9 there shall be added the following form:—

"Form 9W

Form of bilingual Schedule for inclusion in adoption orders made by Welsh courts.

1. No. of entry Rhif y cofnod	
2. Date	*Registration District* *Dosbarth Cofrestru*
Dyddiad ..... and a'r country of birth of child ..... wlad lle ganwyd y plentyn.....	*Sub-district* *Is-ddosbarth*
3. Name and surname of child Enw a chyfenw y plentyn	
4. Sex of child	Rhyw y plentyn
5. Name and surname, Enw a chyfenw, address cyfeiriad and a occupation of adopter or adopters gwaith y mabwysiadwr neu'r mabwysiadwyr.	
6. Date of adoption order ..... Dyddiad y gorchymyn mabwysiadu..... and description of court by which made..... a disgrifiad o'r llys a'i gwnaeth.....	
7. Date of entry	Dyddiad y cofnod
8. Signature of officer deputed by Registrar General to attest the entry Llofnod y swyddog a benodwyd gan y Cofrestrydd Cyffredinol i ardystio'r cofnod	

Notes to Paragraphs in the Schedule

Nodiadau Ar Y Paragraffau Yn Yr Atodlen

1. *No. of entry.*
7. *Date of entry.*
8. *Signature of officer.*

} For completion by the Registrar General.

1. *Rhif y cofnod.*
7. *Dyddiad y cofnod.*
8. *Llofnod y swyddog.*

} I'w llenwi gan y Cofrestrydd Cyffredinol.

2. *Date and country of birth.* Where the precise date and country of the infant's birth are not proved, enter the date determined by the court to be the probable date. The particulars of the country of birth may be omitted unless it appears probable that the infant was born within the United Kingdom, the Channel Islands or the Isle of Man. In that event enter England or Wales, as the case may be, as the country of birth.

Where the infant was born in England or Wales but the registration district and sub-district in which the birth took place are not proved, or where the infant is treated as born in England or Wales, enter the district and sub-district in which the court sits.

2. *Dyddiad a'r wlad lle'i ganwyd.* Lle na phrofir yr union ddyddiad a'r wlad lle ganwyd y baban, cynhwyswch y dyddiad a benderfynwyd fel y dyddiad tebygol gan y llys. Gellir peidio â chynnwys manylion am y wlad lle'i ganwyd onid ymddengys yn debygol mai o fewn y Deyrnas Gyfunol, Ynysoedd y Sianel neu Ynys Manaw y ganwyd y baban. Os felly cynhwyswch Gymru neu Loegr fel y bo'r achos fel y wlad lle'i ganwyd.

Lle bo'r baban wedi'i eni yng Nghymru neu yn Lloegr ond na phrofwyd ym mha ddosbarth neu is-ddosbarth cofrestru y bu hynny neu lle trinir y baban fel un a anwyd yng Nghymru neu yn Lloegr, cynhwyswch y dosbarth a'r is-ddosbarth lle bo'r llys yn eistedd.

3. *Name and Surname.* Enter the name or names and surname stated in Form A.C.A.1 as those by which the infant is to be known or, if no name or surname is so stated, the original name or names of the infant and the surname of the applicant.

3. *Enw a Chyfenw.* Cynhwyswch yr enw neu'r enwau a'r cyfenw a fynegwyd yn Ffurflen A.C.A.1 fel y rhai yr adnabyddir y baban wrthynt neu, os na fynegir yr enw neu'r cyfenw felly, enw neu enwau gwreiddiol y baban a chyfenw'r sawl sy'n gwneud y cais.

4. *Sex.* Enter "Male" or "Female", as the case may be.

4. *Rhyw.* Rhowch "Gwryw" neu "Benyw" fel y bo'r achos.

5. *Name etc., of adopters.* If the applicant is not ordinarily resident in Great Britain enter the place abroad where he ordinarily resides.

5. *Enw etc. y rhai sy'n mabwysiadu.* Os nad yw'r sawl sy'n gwneud y cais yn byw yn arferol ym Mhrydain Fawr rhowch y lle tramor lle y mae'n arfer byw.

6. *Date of Order, etc.* In the case of a provisional adoption order enter the words "Provisional Adoption Order" followed by the date of the order and the name of the court.

6. *Dyddiad y Gorchymyn, etc.* Mewn achos gorchymyn mabwysiadu tros dro rhowch y geiriau "Gorchymyn Mabwysiadu Tros Dro" ac yna ddyddiad y gorchymyn ac enw'r llys."

12. For the Schedule contained in Form 10 there shall be substituted the Schedule prescribed in rule 10 above.

Dated 4th September 1973.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Adoption (County Court) Rules 1959.

Rule 2 requires an applicant for an adoption order who requests the court to dispense with the consent of the infant's parent or guardian to attach to the document containing his request a statement of the facts on which he intends to rely. Rule 4 requires the registrar to send a copy of such statement to the parent or guardian in cases where application has been made to dispense with his consent, and provides that where a serial number has been assigned to the applicant, he shall be referred to only by that number in the copy of the statement. Rules 7 and 8 amend Forms 1 and 2 accordingly.

Rule 3 substitutes for references to the children's officer of a local authority references to the director of social services.

Rule 5, following section 4(1) of the Civil Evidence Act 1972(c.30), relaxes the requirements for proof of foreign law.

Rule 6 requires the Schedule to an adoption order made by a Welsh court in respect of an infant born in Wales or Monmouthshire (or treated as having been born in the district where the court sits) to be in bilingual form where the adopter so requests. Where this version of the Schedule is used the entry in the Adopted Children Register will be in bilingual form. The rule makes similar provision in relation to the abridged copy of the order which is required to be sent to the applicant. Rule 11 prescribes the form of the Schedule.

Rule 9 enables the medical report on the health of an infant who is at least six weeks old to contain the result of tests for syphilis of the mother's blood instead of the child's blood, except where the result is positive when the child's blood also must be tested. It also substitutes a new test for phenylketonuria.

Rule 10 alters the format of the Schedule to the form of adoption order set out in Form 9. Rule 12 similarly alters the Schedule to the abridged form of adoption order set out in Form 10.

SI 1973/1541
ISBN 0-11-031541-3

