



**Effective Date:** 2018/02/05

**Number:** FPD - 14

**Title:**

## **Practice Direction**

### **Adoption Applications**

**Summary:**

To obtain an order for adoption, the person seeking the order must commence a family law case by petition under Supreme Court Family Rule 17-1 (see Supreme Court Family Rule 3-1(2.2)(a)). This Practice Direction provides direction in relation to:

- uncontested applications for the adoption of a child
- applications to dispense with notice or consent under ss. 11 and 17 of the *Adoption Act*
- adult adoptions.

**Direction:**

1. This Practice Direction replaces FPD 1 *Adoption Applications* dated July 1, 2010 which is rescinded.

**Uncontested application for adoption of a child**

2. In a family law case in which an uncontested application for an order for adoption of a child is sought, the following information and material must be included in the application filed with the court:
  - a. the consents required by the *Adoption Act*, the orders dispensing with consent, or an application to dispense with consent
  - b. the reports required by the *Adoption Act*
  - c. the original or a certified copy of the child's birth registration or satisfactory evidence of the facts relating to the child's birth

- d. a list of all persons who have had care of the child and with whom the child has resided since birth, showing the relevant periods
- e. where there is more than one applicant, information on the relationship between the applicants
- f. the age, occupation and residence of the applicant(s)
- g. information regarding the ability of the applicant(s) to bring up, maintain and educate the child
- h. information regarding any other children of the applicant(s) including particulars of their ages and place of residence
- i. the extent, if any, to which any non-adopting natural parent has supported or exercised contact with the child or access to the child,
- j. information regarding:
  - the residency of the child in the preceding six months as required by section 35 of the *Adoption Act*, or
  - the basis upon which an order dispensing with this residency requirement is sought, including any recommendation made by the director or an adoption agency in this regard.
- k. whether there is an order, or an agreement enforceable as an order under the *Family Law Act* in place for contact with or access to the child by a parent or other person
- l. where the petitioner seeks an order pursuant to s. 38(2) of the *Adoption Act*, the adoption application must include the following information relating to the best interests of the child:
  - the history of contact or access between the child and the person seeking contact or access
  - information regarding the relationship between the parties to the agreement
  - a report from the adoption worker as to whether ongoing contact or access is in the best interests of the child.

**Applications to dispense with notice or consent (ss. 11 and 17 of *Adoption Act*)**

3. Subject to paragraph 5 of this direction, an application under section 11 of the *Adoption Act* dispensing with notice of a proposed adoption to a birth father and an application under section 17 of the *Adoption Act* dispensing with consent to an adoption, may be included in an application for an order for adoption under Supreme Court Family Rule 17-1((24).
4. Where an application is made under section of 17 of the *Adoption Act* to dispense with consent of a child's father to a proposed adoption, the affidavit in support of the application must:
  - a. specify which paragraph of section 26(2) of the *Family Law Act* or of section 13(2) of the *Adoption Act* it is alleged applies to the child's father, and

- b. set out the facts in support of the allegation.
5. In circumstances where the non-disclosure provisions of section 42 of the *Adoption Act* apply, an application under section 11 or section 17 of the *Adoption Act*:
- a. must be commenced by a separate petition filed before the petition seeking the adoption order is filed,
  - b. must be brought in the name(s) of “John Doe”, “Jane Doe” or the Director of Adoption, and
  - c. must not disclose the identity of the prospective adoptive parents in the application or the supporting material.

**Explanation of effect of consent to adoption**

6. For the purposes of satisfying the provisions of section 9 of the *Adoption Regulation* (that a person giving consent understands the effect of the consent), where the affidavit of consent states that either a lawyer or a social worker explained to the deponent the effect of the consent, it will be presumed that the explanation was satisfactorily given.

**Terms of openness agreement not to be incorporated into adoption order**

7. The terms of an openness agreement made pursuant to section 59 of the *Adoption Act* may not be incorporated into the adoption order.

**Adult adoption**

8. On an application for an order for adoption of an adult, the following information must be included in the information filed in support of the application:
- a. age and occupation of the applicant(s)
  - b. date and place of birth of the person to be adopted
  - c. consent of the person to be adopted
  - d. relationship between the applicant(s) and the person to be adopted, including the information required by section 44(2) of the *Adoption Act*
  - e. proof of service on the parents of the person to be adopted and on the spouse of the applicant in accordance with Supreme Court Family Rule 17-1(3), and
  - f. any other relevant circumstances.

**Chief Justice C. E. Hinkson**