

ADOPTION APPLICATIONS

Registry staff are trained to receive and issue court documents; they are not legally trained and cannot provide individuals with legal advice.

This is particularly important to understand when you are seeking adoption information. While adoption is a highly personal process, it has many legal ramifications.

Registry staff can only provide guidance for the procedure in a straight forward adoption. Registry staff cannot assist you with matters of legal advice.

This package contains information for a basic adoption application, together with samples of the forms that you may use to assist you when drafting your own documents.

This basic adoption proceeding is commenced by filing a petition and affidavit with all required consents, reports and a draft order.

The filing fee to open an adoption application is \$200.00 payable by cash, cheque or money order to the Minister of Finance. \$80.00 is required for an unopposed desk order application.

Other documents which may be required for the application are obtainable from the Vital Statistics Agency, <https://www2.gov.bc.ca/gov/content/family-social-supports/seniors/health-safety/health-care-programs-and-services/vital-statistics> or your local Service BC Office:

- Registration of Live Birth form
- VSA 433 - Identification Particulars form

A report from the Director of Adoption, Ministry for Children and Families may also be required. If the Report from the Director of Adoption or the adoption agency was signed more than three months prior to the application to the Court, a certificate confirming the report must also be filed (see section 35(2) *Adoption Act*).

A lawyer or social worker must explain the meaning and effect of adoption to the person signing the consent. The name and occupation of the person who provides the explanation must be included in the Affidavit of Consent. Where a consent does not confirm the occupation of the person giving the explanation, a further affidavit of the person consenting must be filed. The consent of the birth parent is not required in an adult adoption (section 44(2) *Adoption Act*). Service of the petition on the birth parents is required, unless (although not required) the consent of the birth parents has been obtained.

In all adoptions, if the child is between the ages of 7 and up to and including 11 years, a report of a younger child's views is required before the application to the court. Contact a social worker at the Ministry of Children and Family Development if this applies to your application.

Where a biological father is not required to consent as a parent within the meaning of the *Adoption Act*, an affidavit of the natural mother attesting to this and to the search of the Registry for Birth Parents is required. The address of the Registry for Birth Parents is:

Parents' Registry
PO Box 9705, Stn Prov Govt
Victoria, British Columbia
V8W 9S1

More information with respect to adoption may be found on the Vital Statistics Agency's website at;
<https://www2.gov.bc.ca/gov/content/life-events/birth-adoption/adoptions>.

or on the Ministry of Children and Family Development website at;

<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/children-and-family-development>, and

<https://www.bcadoption.com/ministry-children-and-family-development>.

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a *[Male/Female]* Child
[Province/State/Country] Birth Registration Number *[Number]*

PETITION TO THE COURT

THIS IS THE PETITION OF: *[include full name of petitioner(s)]*

ON NOTICE TO:

.....
[name and address of each person to be served]

.....

.....

The address of the registry is:

The petitioner(s) estimate(s) that the hearing of the petition will take*[time estimate]*.....

This family law case is brought, for the relief set out in Part 1 below, by

[Check whichever one of the following boxes is correct and complete any required information.]

- ☐ the person(s) named as petitioner(s) in the style of proceedings above
☐*[name(s)]*..... (the petitioner(s))

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form F74 of the Supreme Court Family Rules in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
- (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition with the time for response.

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

Claim of the Petitioner(s)

Part 1: ORDER(S) SOUGHT

[Using numbered paragraphs, set out the order(s) that will be sought at the hearing of the petition and indicate against which respondent(s) the order(s) is(are) sought.]

1. The child whose particulars of birth as set out in the above-described Birth Registration be adopted as the child of the Petitioner(s) pursuant to section 35(1) of the *Adoption Act*, *[(and where applicable) jointly with the birth [mother/father] of the child;]*
2. The child [assume/retain] the surname of [the Petitioner(s)] and the given name(s), *[state the names]*.
3. [If applicable] Notice to (and the consent of) be dispensed with.

Part 2: FACTUAL BASIS

1. *[Whether the petitioners are married and, if so, the date and place of marriage, or the relationship between the petitioners if not married.]*
2. *[Age of the petitioner(s)]*
3. *[Occupation of the petitioner(s)]*
4. *The petitioner(s) have the ability to bring up, maintain, and educate the child.*
5. *[Date and place of birth of the child.]*
6. *[List of all persons who have had care of the child since birth, showing the periods in which they had care.]*
7. *[Whether the petitioner(s) have any other children and, if so, particulars of their ages and place of residence.]*
8. *[The consent of the child's parents or reasons for the omission of a consent.]*
9. *[Whether there is an order in place for access by a non-custodial parent or other person.]*
10. *[The extent to which any non-adopting parent has supported or exercised access to the child.]*
11. The petitioner(s) is/are both resident(s) of British Columbia as defined by the Regulations.
12. *[Any unusual relevant circumstances].*
13. The petitioners wish the child to [assume/retain] the surname *[name]* and the given name(s).

[In an adoption where a report from the Director of Adoption is required the following facts must be included in addition to the above. In a non-family adoption, the petition should set out when the child was placed with the petitioners.]

14. The petitioner(s) notified the Director of Adoption of their intention to apply to the court for the adoption of the child on *[day, month, year]*.
15. The petitioner(s) will refer to the report to be made to the court by the Director of Adoption to prove the following:

Part 3: LEGAL BASIS

[Using paragraphs numbered sequentially from Part 2 above, specify any rule or other enactment relied on and provide a brief summary of any other legal bases on which the petitioner(s) intend(s) to rely in support of the orders sought.]

16.

17.

Part 4: MATERIAL TO BE RELIED ON

[Using numbered paragraphs, list the affidavits served with the petition. Each affidavit included on the list must be identified as follows: "Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[date].....".]

1.

2.

Date:

.....
Signature of

☐ petitioner ☐ lawyer for petitioner(s)

..... *[type or print name]*.....

This is the affidavit
of..... in this case
and was made on.....

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a *[Male/Female]* Child
[Province/State/Country] Birth Registration Number *[Number]*

PETITIONER(S) AFFIDAVIT

(I/We), [Name in full of petitioner(s)], of [address], [occupation], swear (or affirm) as follows:

- 1) *(I/We) (am/are) the Petitioner(s) named in the petition dated*
- 2) *(I/We) swear that the facts set out in the petition are true to the best of (my/our) knowledge, information and belief.*

[The following paragraphs must be included if the affidavit was sworn or affirmed by video conference:

[#] "I acknowledge the solemnity of making a sworn statement/solemn declaration and acknowledge the consequences of making an untrue statement." and

[##] "I was not physically present before the person before whom this affidavit was sworn or affirmed but was in that person's presence using video conferencing."]

SWORN (OR AFFIRMED) BEFORE)
me at*[commissioner's city/town]*.....,)
British Columbia on*[date]*.....)

)
)
)
.....)

A commissioner for taking
Affidavits for British Columbia

[print name or affix stamp of commissioner]

This is the affidavit
of..... in this case
and was made on.....

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a *[Male/Female]* Child
[Province/State/Country] Birth Registration Number *[Number]*

AFFIDAVIT

Consent to Adoption by Parent or Guardian

I,*[Name in full of person consenting]*....., of*[address]*.....,*[occupation]*.....,
swear (affirm) as follows:

1. I am the*[parent, guardian]*.... of the child*[name in full of child to be adopted]*....., born on theday of, 20..... at*[place of birth]*......
2. The meaning and effect of adoption was fully explained to me by *[name of social worker or lawyer]*..... .
3. The circumstances under which I can revoke my consent were fully explained to me by*[name of social worker or lawyer]*..... .
4. I consent to the adoption of my child.

OR

- * I consent to the adoption of my child by*[Insert name of parent in direct placement]*..... .
5. I am signing this consent freely and voluntarily.

(* Only applies to a direct placement.)

[The following paragraphs must be included if the affidavit was sworn or affirmed by video conference:

[#] "I acknowledge the solemnity of making a sworn statement/solemn declaration and acknowledge the consequences of making an untrue statement." *and*

[##] "I was not physically present before the person before whom this affidavit was sworn or affirmed but was in that person's presence using video conferencing."

SWORN (OR AFFIRMED) BEFORE ME)
at[*commissioner's city/town*].....,)
British Columbia on[*date*].....)
.....)

.....
[Signature of person consenting]

A commissioner for taking affidavits
for British Columbia
[print name or affix stamp of commissioner]

This is the affidavit
of..... in this case
and was made on.....

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a *[Male/Female]* Child
[Province/State/Country] Birth Registration Number *[Number]*

AFFIDAVIT

Consent to Adoption by Child over Twelve

I,*[Name in full of child consenting]*....., of *[address]*....., swear (affirm) as follows:

1. I am the child to be adopted by *[name of adopting parent/s]*..... .
2. The meaning and effect of adoption was fully explained to me by*[name of social worker or lawyer]*..... .
3. The circumstances under which I can revoke my consent were fully explained to me by *[name of social worker or lawyer]*..... .
4. I consent to being adopted by the applicant/s.
5. I am signing this consent freely and voluntarily.
6. I do not consent to my name being changed.

OR

I consent to the change of my name to *[full name to be assumed upon adoption]*.

[The following paragraphs must be included if the affidavit was sworn or affirmed by video conference:

[#] "I acknowledge the solemnity of making a sworn statement/solemn declaration and acknowledge the consequences of making an untrue statement." and

[##] "I was not physically present before the person before whom this affidavit was sworn or affirmed but was in that person's presence using video conferencing."

SWORN (OR AFFIRMED) BEFORE ME)
at[commissioner's city/town].....,)
British Columbia on[date].....)
.....)

.....
[Signature of person consenting]

A commissioner for taking affidavits
for British Columbia
[print name or affix stamp of commissioner]

This is the affidavit
of..... in this case
and was made on.....

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a *[Male/Female]* Child
[Province/State/Country] Birth Registration Number *[Number]*

AFFIDAVIT

I,*[name in full]*....., of*[address]*....., *[occupation]*..... MAKE
OATH AND SAY THAT:

1. I am the birth mother of the *[female/male]* child and as such, I have personal knowledge of the matters set out in this affidavit.
2. My child was born at, in the (Province/State) of, on the day of, 20..... .
3. No man qualifies as a biological father as set out in section 26 of the *Family Law Act* in that:
 - a) no male person was married to me on the day of my child's birth;
 - b) no male person was married to me and, within 300 days before my child's birth, the marriage was ended:
 - i. by his death;
 - ii. by a judgment of divorce; or
 - iii. because the marriage is void or voidable;
 - c) no male person was married to me after my child's birth and acknowledged that he is the father;
 - d) no male person was living with me in a marriage like relationship within 300 days before, or on the day of, my child's birth; and
 - e) no male person has, along with me, acknowledged that he is the child's father by having signed a statement under section 3 of the *Vital Statistics Act*.

- f) No male person has acknowledged that he is the child's father by having signed an agreement under section 20 of the *Child Paternity and Support Act*.
4. No person other than myself is a parent or guardian of my child in that the biological father has never resided with the child and none of the conditions set out in section 39(3) of the *Family Law Act* applies.
5. A search of the Parents' Registry was conducted by*[name of person qualified under section 14 of the regulations]*.... and no man is registered in that registry as shown by the document from the Parents' Registry attached as Exhibit "A".

[The following paragraphs must be included if the affidavit was sworn or affirmed by video conference:

[#] "I acknowledge the solemnity of making a sworn statement/solemn declaration and acknowledge the consequences of making an untrue statement." *and*

[##] "I was not physically present before the person before whom this affidavit was sworn or affirmed but was in that person's presence using video conferencing."

| | | |
|--|---|--|
| SWORN (OR AFFIRMED) BEFORE ME |) | |
| at <i>[commissioner's city/town]</i>, |) | |
| British Columbia on <i>[date]</i> |) | |
| |) | |
| |) | <i>[Signature of person consenting]</i> |
| A commissioner for taking affidavits | | |
| for British Columbia | | |
| <i>[print name or affix stamp of commissioner]</i> | | |

This is the affidavit
of..... in this case
and was made on.....

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a *[Male/Female]* Child
[Province/State/Country] Birth Registration Number *[Number]*

AFFIDAVIT

I,*[Name in full]*.....,*[Occupation]*....., and*[Name in full]*.....,
.....*[Occupation]*....., of*[Street address]*..... *[City, Municipality, etc]*,
British Columbia, swear (affirm) as follows:

1. I/We are applying to adopt a..... *[Male/Female]* child born on the.....
day of, 20....., Birth Registration Number.....
2. I/We have paid for or given to or on behalf of the birth mother, pre-adoption parent or
guardian the following:

| Item | Amount |
|---------------------|---------------|
| a) accommodation | |
| b) medical services | |
| c) transportation | |
| d) counselling | |
| e) cost of gifts | |
| Total | |

OR

I/We have not given to or on behalf of the birth mother, pre-adoption parent or
guardian, either directly or indirectly, any payment or reward.

*[The following paragraphs must be included if the affidavit was sworn or affirmed by
video conference:*

[#] "I acknowledge the solemnity of making a sworn statement/solemn declaration and
acknowledge the consequences of making an untrue statement." *and*

[##] "I was not physically present before the person before whom this affidavit was sworn

or affirmed but was in that person's presence using video conferencing."]

SWORN (OR AFFIRMED) BEFORE ME)
at[commissioner's city/town].....,)
British Columbia on[date].....)
.....)
.....)

.....
[Signature]

A commissioner for taking affidavits
for British Columbia
[print name or affix stamp of commissioner]

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a *[Male/Female]* Child
[Province/State/Country] Birth Registration Number *[Number]*

REQUISITION FOR CONSENT ORDER OR ORDER WITHOUT NOTICE

Filed by: *[party (ies)]*.....

Required: ☐ An order by consent

[OR]

☐ An order without notice

1. The rule or other enactment relied on is..... *[set out the rule or enactment relied on]*.....

2. Attached to this requisition is a draft of the order required.

[Check whichever one of the following boxes is correct and complete any required information.]

3. ☐ Each party affected has consented to the order.

☐ The evidence in support of the application is contained in the following documents that are filed with this requisition:

[Check whichever one of the following boxes is correct and complete any required information.]

4. ☐ No party is under a legal disability

☐ *[name of party]* is under a legal disability, namely
..... *[set out legal disability]*.....

Date:

.....
Signature of
☐ filing party ☐ lawyer for filing party(ies)
..... *[type of print name]*.....

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

IN THE MATTER OF THE ADOPTION ACT (RSBC 1996) CHAPTER 5

and

In the Matter of a [Male/Female] Child
[Province/State/Country] Birth Registration Number [Number]

ORDER MADE WITHOUT NOTICE

BEFORE) ☐ A JUDGE OF THE COURT)
) or) [dd/mmm/yyyy]....
) ☐ AN ASSOCIATE JUDGE)
) OF THE COURT)

ON THE APPLICATION OF [party(ies)]

AND ON THE COURT DETERMINING THAT a hearing is not required and notice is not required; and the requirements of the *Adoption Act* having been complied with;

THIS COURT ORDERS that:

1. the child whose particulars of birth are set out in the above described birth registration and who was born at _____ on the _____ day of _____, 20____
be and is adopted as the child of *[state name(s) of applicant(s)]*;
2. the child shall assume the surname of the applicants and the given name(s) of _____

THE FOLLOWING PARTY[IES] APPROVE THE FORM OF THIS ORDER:

.....
Signature of
[] party [] lawyer for.....[*name of party(ies)*].....
.....[*type or print name*].....

BY THE COURT

Registrar



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