

# Adoption Act

**Repealed by Act.2023-04 as from 18.4.2024**

## Principal Act

<b>Act. No. 1951-19</b>	<i>Commencement</i>	14.12.1951
	<i>Assent</i>	7.12.1951

Amending enactments	Relevant current provisions	Commencement date
Act. 1962-15	s. 7(2)	31.5.1962
1971-16	s. 4	23.12.1971
1972-06	–	1.9.1972
1980-04	s. 19(3)	1.6.1980
1983-48	s. 10(2)	31.12.1983
2007-17	ss. 5(5), 19(1), (3)	14.6.2007
2014-10	s. 5(2)	28.3.2014
2021-09	ss. 2(1), 19(1), 20(1)-(2), (2A), (3), (a)-(b), (4), 21(1)-(2), (b), (3A), (4)-(7), Sch.	9.2.2021

Rules of court made under s.3(2) and under other powers appear under the title Supreme Court.

## English sources

Adoption of Children Act 1926 (16 & 17 Geo. 5 c.29)

Adoption of Children (Regulation) Act 1939 (2 & 3 Geo. 6 c.27)

Adoption of Children Act 1949 (12, 13 & 14 Geo. 6 c.98)

Adoption Act 1958 (7 Eliz. 2 c.5)

**ARRANGEMENT OF SECTIONS**

## Section

*Preliminary.*

1. Short title.
2. Interpretation.

*Jurisdiction and procedure.*

3. Jurisdiction and procedure.
4. Service of notices.

*Preconditions to adoption.*

5. Who may apply.
6. Consents.
7. Probationary period.
8. Matters on which the court must be satisfied.

*Evidence.*

9. Evidence of paternity.

*Power to make orders.*

10. Adoption orders.
11. Interim orders.
12. Re-adoption.

*Terms and effect of orders.*

13. Terms that may be imposed.
14. Effect of adoption order.
15. Devolution and disposal of property.
16. Supplementary provisions as to inheritance, etc.
17. Prohibited degrees for marriage.
18. Effect on maintenance orders.

*Registration.*

19. Appointment of Registrar.
20. Adoption and Parental Order Register.

21. Directions as to registration.

*Restrictions and prohibitions.*

22. Restrictions on payments.  
23. Prohibition of advertising.  
24. Restriction on sending minors for adoption abroad.

**SCHEDULE.**

Form of Entry to be made in Register.

## AN ACT TO CONSOLIDATE THE LAW RELATING TO THE ADOPTION OF MINORS.

*Preliminary.***Short title.**

1. This Act may be cited as the Adoption Act.

**Interpretation.**

- 2.(1) In this Act, unless the context otherwise requires,—

“adopter” means a person who has been authorized to adopt a minor;

“adoption order” means an order made under section 10 authorizing an applicant to adopt a minor;

“court” means a court having jurisdiction to make adoption orders;

“father”, in relation to an illegitimate minor, means the natural father;

“guardian”, in relation to a minor, means any person lawfully appointed to be that minor’s guardian;

“intended parents”, means the people intended to be the individual or individuals who seek to obtain a parental order;

“parental order” means an order made under sections 20 and 21 of the Surrogacy Act 2021 authorising the applicant to be treated as the parent or parents of the child it is made in respect of;

“register” means the Adoption and Parental Order Register;

“Registrar” means the officer appointed under this Act to keep the Adoption and Parental Order Register;

“relative”, in relation to a minor 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 minor or any other person, any person who would be a relative of the minor within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock; and

- (b) where the minor is illegitimate, the father of the minor and any person who would be a relative of the minor within the meaning of this definition if the minor were the legitimate child of his mother and father.

(2) For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a minor if he, not being the parent or guardian of the minor, enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the minor by any other person, whether the adoption is effected, or is intended to be effected, in pursuance of an adoption order or otherwise, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another so to do.

*Jurisdiction and procedure.*

**Jurisdiction and procedure.**

3.(1) The court having jurisdiction to make adoption orders under this Act is the Supreme Court or, at the option of the applicant, but subject to any rules of court under this section, the magistrates' court.

(2) The Chief Justice may make rules of court 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.

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

(4) Until such rules take effect, any rules from time to time in force in England shall have effect, so far as applicable, as if duly made under the provisions of the Act.

**Service of notices.**

4. Any notice under this Act may be served by registered post.

*Preconditions to adoption.*

**Who may apply.**

5.(1) Subject to subsection (2), an adoption order shall not be made unless the applicant—

- (a) is the mother or father of the minor;
  - (b) is a relative of the minor and has attained the age of twenty-one years; or
  - (c) has attained the age of twenty-five years.
- (2) An adoption order may be made in respect of a minor on the joint application of two spouses or two civil partners –
- (a) if either of the applicants is the mother or father of the minor,
  - (b) if the condition set out in paragraph (b) or paragraph (c) of subsection (1) is satisfied in the case of one of the applicants, and the other of them has attained the age of twenty-one years.
- (3) Except where an adoption order is made on the joint application of two spouses, no adoption order shall be made authorizing more than one person to adopt a minor.
- (4) An adoption order shall not be made in respect of a minor 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.
- (5) An adoption order shall not be made in favour of an applicant who is not resident and domiciled in Gibraltar or, save with the consent of the Minister responsible for personal status, in respect of any minor who is not a British subject and so resident.
- (6) An adoption order shall not be made in respect of a minor who has been married.

**Consents required.**

6.(1) An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the minor, or who is liable by virtue of any order or agreement to contribute to the maintenance of the minor:

Provided that the court may dispense with any consent required by this subsection if it is satisfied–

- (a) in the case of a parent or guardian of the minor that he has abandoned, neglected or persistently ill-treated the minor;
- (b) in the case of a person liable to contribute to the maintenance of the minor that he has persistently neglected or refused so to contribute; or

- (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) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them:

Provided that the court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving such 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 may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the minor 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) Where any person whose consent to the making of an adoption order is required by this section does not attend in the proceedings for the purpose of giving it, 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 or otherwise described in the document, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings; and where any such document is attested by a justice of the peace (or, if executed outside Gibraltar, by a person of any such class as may be prescribed), the document shall be so admissible without further proof of the signature of the person by whom it is executed:

Provided that the document signifying the consent of the mother of a minor shall not be so admissible unless—

- (a) the minor 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 or, as the case may be, by a person of a class prescribed as aforesaid.

(5) While an application for an adoption in respect of a minor is pending in any court, any parent or guardian of the minor 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 minor from the care and custody of the applicant; and in considering whether to grant or refuse such leave the court shall have regard to the welfare of the minor.

(6) For the purposes of subsection (3), a document purporting to be attested as mentioned in that subsection 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.

**Probationary period.**

7. An adoption order shall not be made unless—

- (a) the minor has been continuously in the care and custody of the applicant for at least three consecutive months immediately preceding the date of the order; and
- (b) the applicant has, at least three months before the date of the order, notified a welfare officer of his intention to apply for an adoption order in respect of the minor.

**Matters on which the court must be satisfied.**

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

- (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 minor;
- (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) In determining whether an adoption order if made will be for the welfare of the minor the court shall have regard (among other things) to the health of the applicant as evidenced, in such cases as may be prescribed, by the certificate of a medical practitioner and shall give due consideration to the wishes of the minor having regard to his age and understanding.

*Evidence.*

**Evidence of paternity.**

9.(1) Where, in connection with any application for an adoption order, any question arises as to the paternity of a minor and, in order to decide that question, it is relevant to determine whether marital intercourse took place between a husband and his wife during a particular

period, evidence that such intercourse did not take place may be given in the proceedings on the application by either of the parties concerned.

(2) A person who has given such evidence in any proceedings by virtue of this section may give the like evidence in any subsequent proceedings of whatever nature in which that evidence is relevant.

*Power to make orders.*

**Adoption order.**

10. Upon an application in the prescribed manner by any person desirous of being authorized to adopt a minor who has never been married, the court may, subject to the provisions of this Act, make an order authorizing the applicant to adopt that minor.

**Interim orders.**

11.(1) Upon any application for an adoption order, the court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Act) giving the custody of the minor 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 and supervision of the welfare of the minor and otherwise as the court may think fit.

(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 unless the conditions are satisfied that are required under section 7 for an adoption order.

**Re-adoption.**

12. An adoption order or an interim order may be made in respect of a minor who has already been the subject of an adoption order, and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the minor for all the purposes of this Act.

*Terms and effect of orders.*

**Terms that may be imposed.**

13. 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 adopted person such provision (if any) as in the opinion of the court is just and expedient.

**Effect of adoption order.**

14.(1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted person in relation to the future custody, maintenance and education of the adopted person including all rights to appoint a guardian or 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 though the adopted person were a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain his parents the adopted person shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock:

Provided that, in any case where two spouses are the adopters, such 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 adopted person in the same relation as they would have stood if they had been the lawful father and mother of the adopted person, and the adopted person shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother respectively.

(2) Where an adopted person or the spouse or issue of an adopted person takes any interest in real or personal property under a disposition by the adopter, or where an adopter takes any interest in real or personal property under a disposition by an adopted person or the spouse or issue of an adopted person, any estate duty or other duty payable in consequence of death which becomes leviable in respect thereof shall be payable at the same rate as if the adopted person had been a child born to the adopter in lawful wedlock.

(3) For the purposes of this section, “disposition” means an assurance of any interest in property by any instrument whether inter vivos or by will.

(4) For the purposes of the enactments relating to friendly societies, collecting societies and industrial assurance 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, the adopter shall be deemed to be the parent of the adopted person and where before the adoption order was made any such insurance had been effected by the natural parent of the adopted person 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 those enactments, be treated as the person who took out the policy.

**Devolution and disposal of property.**

15.(1) The provisions of this and the next following section shall have effect for securing that adopted persons are treated as children of the adopters for the purposes of the devolution or disposal of real and personal property.

(2) Where, at any time after the making of an adoption order the adopter or the adopted person or 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.

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

- (a) any reference (whether express or implied) to the child or children of the adopter shall 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 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 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,

unless the contrary intention appears.

(4) Where under any disposition any real or personal property or any interest in such property is limited (whether subject to any preceding limitation or charge or not) in such a way that it would, apart from this section, devolve (as nearly as the law permits) along with a dignity or title of honour, then, whether or not the disposition contains an express reference to the dignity or title of honour, and whether or not the property or some interest in the property may in some event become severed therefrom, nothing in this section shall operate to sever the property or any interest therein from the dignity, but the property or interest shall devolve in all respects as if this section had not been enacted.

(5) References in this section to an adoption order shall be construed as including references to an adoption order made before the date of the commencement of this Act; but nothing in this section shall affect the devolution of any property on the intestacy of a person who died before that date, or any disposition made before that date.

**Supplementary provisions as to inheritance, etc.**

16.(1) For the purposes of the application of the Administration of Estates Act<sup>1</sup> to the devolution of any property in accordance with the provisions of section 15, and for the purposes of the construction of any such disposition as is mentioned in that section, an adopted person shall be deemed to be related to any other person being the child or adopted child of the adopter or (in the case of a joint adoption) of either of the adopters—

- (a) where he or she was adopted by two spouses jointly, and that other person is the child or adopted child of both of them, as brother or sister of the whole blood; or
- (b) in any other case, as brother or sister of the half-blood.

(2) Notwithstanding any rule of law, a disposition made by will executed before the date of an adoption order shall not be treated for the purposes of section 15 as made after that date by reason only that the will is confirmed by a codicil executed after that date.

(3) Notwithstanding anything in section 15, trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto, without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein, and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person who may have received it, other than a purchaser.

(4) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of section 15 in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order and in relation to any disposition of property made after that date.

#### **Prohibited degrees of marriage.**

17. For the purposes of the law relating to marriage an adopter and the person whom he has been authorized to adopt under an adoption order, whether made before or after the commencement of this Act, 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 minor:

Provided that nothing in this subsection shall invalidate any marriage which was solemnized before the 14th day of December 1951.

---

<sup>1</sup> 1933-02

**Effect on maintenance orders.**

18. Where an adoption order is made in respect of a minor who is illegitimate, any maintenance order in force with respect to the minor, and any agreement whereby the father of the minor has undertaken to make payments specifically for the benefit of the minor shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the maintenance order or the agreement at the date of the adoption order:

Provided that where the minor is adopted by his mother, and the mother is a single woman, the order or agreement shall not cease to have effect by virtue of this subsection upon the making of the adoption order but shall cease to have effect if she subsequently marries.

*Registration.*

**Appointment of Registrar.**

19.(1) The Government shall appoint a Registrar who shall have the custody and control of the Adoption and Parental Order Register.

(2) Unless and until any appointment is made the Registrar of Births and Deaths shall be the Registrar for the purposes of this Act.

(3) The Government may appoint one or more Assistant Registrars, and any Assistant Registrar so appointed may, subject to any directions given to him by the Registrar, exercise all the powers and perform all the duties of the Registrar.

**Adoption and Parental Order Register.**

20.(1) The Registrar shall establish and maintain in his office a register to be called the Adoption and Parental Order Register, in which shall be made such entries as may be directed to be made therein by adoption and parental orders, but no other entries.

(2) The Registrar of the Supreme Court or, in the case of orders made by the magistrates' court, the clerk to the justices, shall cause every adoption order to be communicated 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 marking any entry in the Register of Births with the word "Adopted", and in regard to making the appropriate entry in the Adoption and Parental Order Register.

(2A) The Registrar of the Supreme Court shall cause every parental order to be communicated 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 marking any entry in the Register of Births with the words "Parental Order", and in regard to making the appropriate entry in the Adoption and Parental Order Register.

(3) A certified copy of any entry in the Adoption and Parental Order Register if purporting to be sealed or stamped with the seal of the registrar 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 person or the person who is the subject of a parental order be received as evidence of the adoption or making of a parental order in respect of that person to which the same relates; and
- (b) where the entry contains a record of the date of the birth or the country of the birth of the adopted person or the person who is the subject of a parental order, be received not only as evidence of the adoption or making of a parental order in respect of that person to which the same relates but also as evidence of the date of the birth or the country of the birth of the adopted person or the person who is the subject of a parental order to which the same relates in all respects as though the same were a certified copy of an entry in the Register of Births.

(4) The Registrar shall cause an index of the Adoption and Parental Order 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 Adoption and Parental Order 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 Births and Deaths Registration Act in respect of searches in other indexes kept in the office of the Registrar and in respect of the supply from such office of certified copies of entries in the certified copies of the Register of Births and Deaths.

**Directions as to registration.**

21.(1) Every adoption order and parental order shall contain a direction to the Registrar to make in the Adoption and Parental Order Register an entry in the form set out in the Schedule, and (subject to the provisions of subsection (2)) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.

- (2) For the purposes of compliance with the requirements of subsection (1)—
  - (a) where the precise date of the minor's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined shall be specified in the order as the date of his birth, and
  - (b) where the name or surname which the minor is to bear after the adoption or making of a parental order differs from his original name or surname, the new name or surname shall be specified in the order instead of the original,

and where the country of the birth of the minor is not proved to the satisfaction of the court, the particulars of that country may, notwithstanding anything in that subsection, be omitted from the order and from the entry in the Adoption and Parental Order Register.

(3) Where upon an application for an adoption order in respect of a minor (not being a minor who has previously been the subject of an adoption order) there is proved to the satisfaction of the court the identity of the minor with a person to whom an entry in the register of births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar to cause the entry in the Register of Births to be marked with the word “adopted”.

(3A) Where upon an application for a parental order in respect of a minor there is proved to the satisfaction of the court the identity of the minor with a person to whom an entry in the register of births relates, any parental order made in pursuance of the application shall contain a direction to the Registrar to cause the entry in the Register of Births to be marked with the words “Parental Order”.

(4) Where an adoption order is made in respect of a minor who has previously been the subject of an adoption order, the order shall contain a direction to the Registrar to cause the previous entry in the Adoption and Parental Order Register to be marked with the word “re-adopted”.

(5) Where an adoption or parental order is quashed, or an appeal against an adoption order allowed, the court which made the order shall give directions to the Registrar to cancel any marking of an entry in the Register of Births and any entry in the Adoption and Parental Order Register which was effected in pursuance of the order.

(6) A copy of any entry in the Register of Births or the Adoption and Parental Order Register 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.

(7) The court by which an adoption or parental order has been made may, on the application of the adopter or of the adopted person or the person subject to a parental order or the person or persons who obtained a parental order, amend the order by the correction of any error in the particulars contained therein; and where an adoption or parental 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 Adoption and Parental Order Register shall be made accordingly.

(8) In the case of an adoption order made before the commencement of this Act, the power of the court under subsection (7) shall include power to amend the order—

- (a) by the insertion of the country of the adopted person’s birth; and

- (b) (where the order does not specify a precise date as the date of the adopted person's birth) by the insertion of the date which appears to the court to be the date or probable date of his birth,

and the provisions of that subsection shall have effect accordingly.

*Restrictions and prohibitions.*

**Restriction on payments.**

22.(1) It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the court to receive any payment or other reward in consideration of the adoption of a minor under this Act or for any person to make or give or agree to make or give to any adopter or to any parent or guardian any such payment or reward.

(2) Subject to the provisions of this Act, it shall not be lawful for any person who makes arrangements for an adoption to receive or agree to receive, or to make or agree to make, any payment or reward whatsoever in connection with the making of the arrangement:

Provided that this subsection shall not apply to any payments the receipt or making whereof is sanctioned by the court to which an application for an adoption order is made, or to any agreement, whether entered into before or after the making of the application, with respect to the receipt or making of any such payments as may be so sanctioned.

(3) A person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to imprisonment for six months and to a fine of £200.

**Prohibition of advertising.**

23.(1) It shall not be lawful for any advertisement to be published indicating that—

- (a) the parent or guardian of a minor is desirous of causing the minor to be adopted;  
or
- (b) a person is desirous of adopting a minor; or
- (c) a person is willing to make arrangements for the adoption of a minor.

(2) A person who causes to be published, or knowingly publishes, an advertisement in contravention of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of £50.

**Restriction on sending minors for adoption abroad.**

24.(1) It shall not be lawful for any person, in connection with any arrangements made for the adoption of a minor who is a British subject to permit, or to cause or procure, the care and possession of the minor to be transferred to a person who is not a British subject or the guardian or a relative of the minor and who is resident abroad.

(2) It shall not be lawful for any person, in connection with any such arrangements to permit or to cause or procure the care and possession of such a minor to be transferred to a person who is a British subject resident abroad, and who is not the guardian or a relative of the minor, unless a licence has been granted in respect of the minor under this section.

(3) The magistrates' court may grant a licence in the prescribed form, and subject to such conditions and restrictions as the magistrates' court thinks fit, authorizing the care and possession of a minor whose adoption arrangements have been made to be transferred to a British subject resident abroad, but no such licence shall be granted unless the magistrates' court—

- (a) be satisfied that the application is made by or with the consent of every person or body who is a parent or guardian of the minor in question, or who has the actual custody of the minor or who is liable to contribute to the support of the minor; and
- (b) is satisfied by a report of a British consular officer or any other person who appears to the magistrates' court to be trustworthy, that the person to whom the care and possession of the minor is proposed to be transferred is a suitable person to be entrusted therewith, and that the transfer is likely to be for the welfare of the minor, due consideration being for this purpose given to the wishes of the minor, having regard to the age and understanding of the minor:

Provided that the magistrates' court may dispense with the consent required by paragraph (a) if the magistrates' court is satisfied that the person whose consent is to be dispensed with has abandoned or deserted the minor or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the minor, either has persistently neglected or refused to contribute to such support, or is a person whose consent ought, in the opinion of the magistrates' court and in all the circumstances of the case, to be dispensed with.

(4) Where the magistrates' court grants a licence under this section, it may authorize the making or receipt by any person of any payments in consideration of the transfer of the care and custody of the minor in respect of whom the licence is granted and any person who gives or receives any payments so authorized shall not be deemed to contravene the provisions of section 22.

(5) The Chief Justice may make rules of court with respect to the application for, and grant of, licences under this section.

(6) A person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to imprisonment for six months and to a fine of £50.

(7) In any proceedings under this section, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer shall, upon proof that the officer or deponent cannot be found in Gibraltar, be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

## SCHEDULE

## Form of Entry to be Made in Register

1 No. of entry	2 Date and Country of birth of minor	3 Name and surname of minor	4 Sex of minor	5 Name and surname, address and occupation of adopter, adopters or the parent or parents by virtue of a parental order	6 Type of order, date of adoption or parental order and description of court by which made	7 Date of entry	8 Signature of officer deputed by Registrar to attest the entry