

## 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, 818 Fort Street, Victoria, B.C. or your local government agent:

- 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 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 for Children and Families 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 Parents' Registry is required. The address of the Parents' Registry is:

Parents' Registry  
Adoption Services

Permanency for Children and Youth Unit  
Ministry of Children and Family Development  
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/births-adoptions/adoptions>.

or on the Ministry of Children and Family Development website at;  
<https://www.bcadoption.com/ministry-children-and-family-development>.

Updated – February 2018

*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]*

.....

.....

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 rely at the hearing.

**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.**

**Time for response to petition**

A response to petition must be filed and served on the petitioner(s),

- (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.

(1)	The address of the registry is:
(2)	The ADDRESS FOR SERVICE of the petitioner(s) is:.... <i>[set out the street address of the address for service for each petitioner. One or both of a fax number and an e-mail address may be given as additional addresses for service.]</i>  Fax number address for service (if any) of the petitioner(s):  E-mail address for service (if any) of the petitioner(s):
(3)	The name and office address of the petitioner's(s') lawyer is:

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 numbered paragraphs, 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.]*

- 1.
- 2.

**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 .....[dd/mmm/yyyy].....".]*

- 1.
- 2.

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

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.

SWORN (OR AFFIRMED) BEFORE )  
me at ....., British Columbia )  
on ..... )  
..... )

.....

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**

**Parent's or Guardian's Consent to Adoption**

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 the .....day 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.)*

SWORN (OR AFFIRMED) BEFORE ME )  
at ..... , British Columbia )  
on .....*[mmm/dd/yyyy]* )  
..... )

.....  
*[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]*.

SWORN (OR AFFIRMED) BEFORE ME )  
at ..... )  
on ..... *[mmm/dd/yyyy]* )  
 )  
..... )

.....  
*[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]*....., of .....*[address]*....., ..... *[occupation]*..... MAKE OATH  
AND SAY THAT:

1. I am the birth mother of the 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) I was not married on the day of my child's birth;
  - b) I was married more than 300 days before the birth of my child however, *(the man I was married to died on ....[mmm/dd/yyyy]....., I was divorced from my (then) husband on ....[mmm/dd/yyyy]..... or my marriage was declared a nullity on [mmm/dd/yyyy].....)*;
  - c) I have not married anyone since the birth of my child and no man has acknowledged that he is the father of my child;
  - d) I have not lived with a man in a marriage like relationship within 300 days of my child's birth nor was I living with a man in such a relationship on the day of my child's birth;
  - e) no man has acknowledged that he is the child's father by having signed a statement under section 3 of the *Vital Statistics Act*,
4. 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".

SWORN (OR AFFIRMED) BEFORE ME )  
at ..... , British Columbia )  
on ..... [mmm/dd/yyyy] )  
..... ) .....  
A commissioner for taking affidavits ) [Signature of person consenting]  
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

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

**BIRTH MOTHER, PRE-ADOPTION PARENT OR GUARDIAN EXPENSES 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:

<b>Item</b>	<b>Amount</b>
a) accommodation	.....
b) medical services	.....
c) transportation	.....
d) counselling	.....
e) cost of gifts	.....
<b>Total</b>	.....

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.

SWORN (OR AFFIRMED) BEFORE ME )  
at ....., British Columbia )  
on ..... *[mmm/dd/yyyy]* )  
 )  
..... ) *[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]*.....





**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**