



**Effective Date:** 2010/07/01

**Number:** FPD - 1

**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)(b)). 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:**

**Uncontested application for adoption of a child**

1. 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 applicant(s)
- g. information on the ability of the applicant(s) to bring up, maintain and educate the child
- h. information on 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 access to the child, and
- j. information on:
  - i. the residency of the child in the preceding six months as required by section 35 of the *Adoption Act*, or
  - ii. 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.

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

- 2. Subject to paragraph 4 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(26).
- 3. Where an application is made under section 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 13(2) of the *Adoption Act* [13(2)(a) – (f)] it is alleged applies to the child's father, and
  - b. set out the facts in support of the allegation.
- 4. 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**

- 5. 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.

**Adult adoption**

6. 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.

**Robert J. Bauman**  
**Chief Justice**