



Adoption of Children Acts

2009 & 2011

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Table of Contents

Introduction.....	2
What is adoption?.....	2
Who can be adopted?.....	2
Who can adopt?.....	3
Who must consent or agree to an adoption?.....	4
Waiver of Consent.....	4
How to adopt a child.....	5
Who decides whether a child should be adopted?.....	6
What should the Court consider before making an adoption order?.....	6
What does the best interests of the child mean?.....	7
Can you have a say in what is best for you?.....	8
Adoptive certificate.....	9
What happens when an Adoption Order is made?.....	9
Would anyone know that you have been adopted?.....	10
Do you have a right to know who your natural parents are?.....	10
Can an adoption order be revoked?.....	10
It is an offence to.....	11
Glossary – Words in the Act you should know.....	12

Introduction

Sometimes, in order to provide a happy, stable home for a child so that he/she can grow up free from physical and emotional or mental abuse, it is necessary that the child be adopted by caring, loving adults.

This booklet tells you about adoption which is provided for in the Adoption of Children Acts 2009 and 2011.

What is adoption?

Adoption is the legal process by which a child becomes the child of persons other than his/her natural or biological parents. When a child is legally adopted the adopter or adopters become the child's parent(s). The natural or biological parents are no longer considered to be the child's parents and they are permanently deprived of their parental rights. An adopted child is treated by the law as if he/she is the natural child of the adopter(s) and has full legal rights as their child.

Who can be adopted?

A person under 18 years of age who has never been married and who lives in Guyana can be adopted.

A person who adopts a child is called an adopter or adoptive parent.

Who can adopt?

A person can apply to adopt a child if she or he is:
a Guyanese national who lives in Guyana;

1. a Guyanese national who lives outside of Guyana;
2. a former Guyanese national who has acquired the citizenship of another country; or
3. a non-Guyanese; and
4. he or she is between 18 and 65 years old;
5. and the age difference between the adopter and the child is not more than 50 years or not less than 17 years.

A mother or father of a child may adopt a child either alone or jointly with his/her spouse, where the spouse is not the biological parent of the child.

Spouse means a husband or wife and includes a single man and single woman living together in a common law union at least five years before the adoption. "Father" includes a man who has treated the child as his own and has previously contributed to the child's maintenance.

If persons are married then both the husband and the wife should apply jointly.



If only one of the spouses applies the other must consent to the adoption application.

A male will only be allowed to adopt a female child who is not his relative in very rare circumstances.

Who must consent or agree to an adoption?

1. The parent(s) of the child.
2. The man who is or was married to the mother of the child if the child was born during the marriage or within 300 days after the marriage has legally ended by divorce or judicial separation.
3. Every person who has been ordered by a court to maintain the child or who has entered into an agreement to maintain the child.
4. The spouse, i.e. the husband or wife, of the person applying to adopt the child.
5. The child, if he/she is 12 years or older.

Waiver of Consent

The court may waive or not require the consent of a parent, guardian or the man who is or was married to the child's mother if the person:

- a. has abandoned, neglected or constantly ill-treated the child;
- b. cannot be found or is not capable of giving consent;
- c. is withholding consent unreasonably;
- d. has not been performing the parental duties in relation to the child; or
- e. has exposed the child to unnecessary risks.

The court may waive or not require the consent of a spouse if he/she:

- a. cannot be found;
- b. is incapable of giving consent; or
- c. the spouses have separated and are living apart and the separation is likely to be permanent.

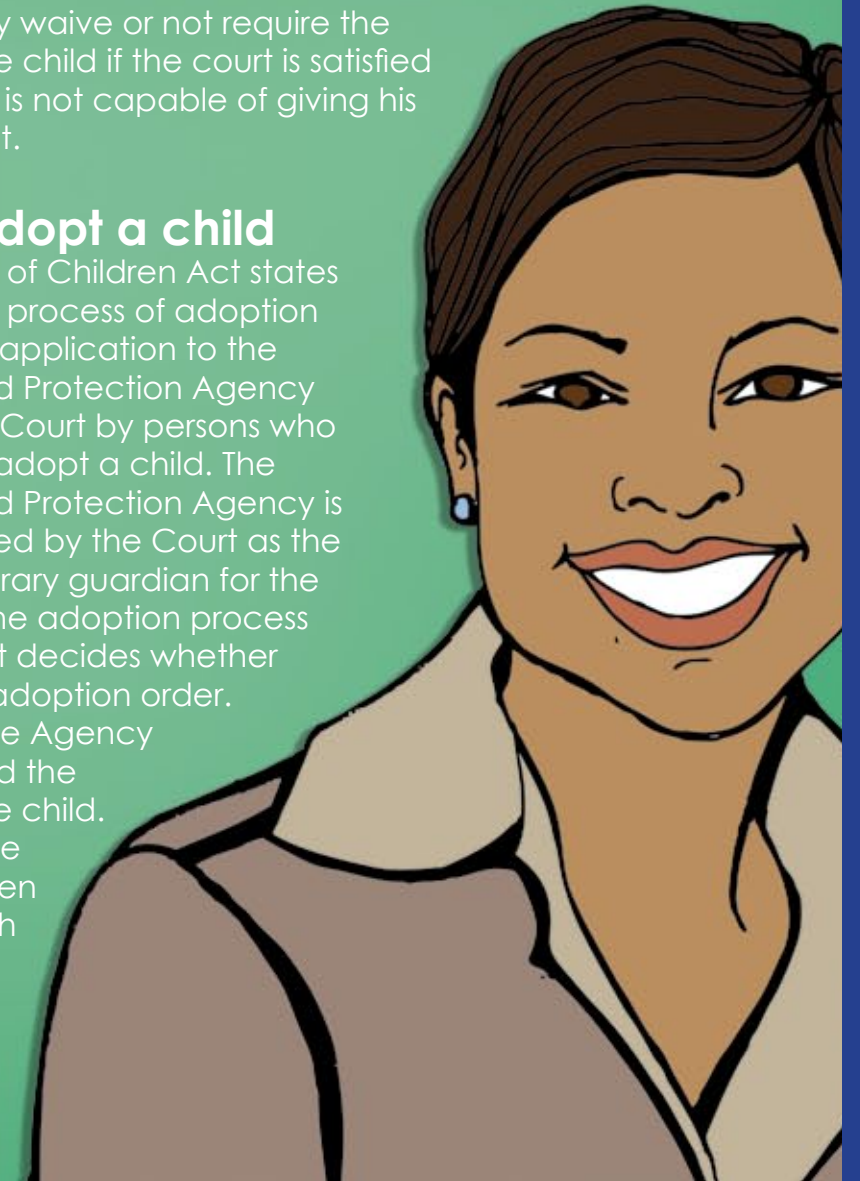
The court may waive or not require the consent of the child if the court is satisfied that the child is not capable of giving his or her consent.

How to adopt a child

The Adoption of Children Act states that the legal process of adoption starts with an application to the Childcare and Protection Agency and the High Court by persons who would like to adopt a child. The Childcare and Protection Agency is then appointed by the Court as the child's temporary guardian for the purposes of the adoption process until the Court decides whether to make the adoption order.

The duty of the Agency is to safeguard the interests of the child.

Most times, the child or children would live with the adopters



in order to see if they can live happily as a family. The Agency will visit the adopters' home and interview them to ensure that they are suitable persons who can care for a child. The social workers of the Agency would try to observe how the child blends into and bonds with the persons who want to adopt him or her into their family. If the adopters live overseas, an agency that is concerned with the welfare of children would do this investigation and interview of the adopters.

Who decides whether a child should be adopted?

A judge of the High Court would review the application and the reports of the Childcare and Protection Agency and Adoption Board to decide whether to grant or make an adoption order.

What should the Court consider before making an adoption order?

In deciding whether to make an adoption order, the court is to consider the best interests of the child as being the most important consideration.



What does the best interests of the child mean?

The best interests of the child means that when the parents and other adults, the Childcare and Protection Agency, the Adoption Board and the Court make decisions that affect children they should always think of –

- the child's safety and health
- the child's education and developmental needs
- where possible, the child's views and wishes
- the importance of having as little disruption as possible in the care of the child
- where the child lives and his or her social environment
- respecting the child's cultural heritage e.g. their religion and way of life.

The Adoption of Children Act specifically states that the Court is to consider the following:

1. the child's views if they are of an age that they can express them
2. the child's age, gender, maturity and level of understanding
3. the child's background and family relationships
4. the child's physical, emotional and educational needs including the child's personal, family and cultural identity
5. any disability the child may have
6. the wishes of the parents
7. the relationship the child had with his/her parents, brothers and sisters and other relatives
8. the attitude of the adopters, especially in relation to their parental responsibilities, and their

- relationship with the child
9. the need to protect the child from any harm, ill-treatment, violence or abuse
 10. the advantages or disadvantages of allowing the adoption
 11. that the child's name, identity, language and cultural or religious ties should be maintained as far as possible.

Can you have a say in what is best for you?

Yes, as a child you have a right to be heard and to participate by saying how you feel about decisions that will affect you. Once you are able to do so the Judge should listen to your views regarding your care and welfare.

Adoptive certificate

Once the Court grants or makes the adoption order, a certified copy of the adoption order must be delivered to the Registrar General for the details of the adoption to be entered in the Adopted Children Register so that an adoptive certificate will be issued. This adoptive certificate replaces the child's birth certificate and serves the same purpose as a birth certificate but it now recognizes the adopters as the child's new parents. The child usually would then be known by the surname of her/his adoptive parents. The child e.g. if it is a baby may also be given new forenames.

What happens when an Adoption Order is made?

After the adoption order is made, the child would remain with his/her new parents.

Because an adopted child is now the child of its adoptive parents, it means that any children and relatives of the adoptive parents become the siblings and relatives of the child. The same legal restrictions that disallow persons marrying their siblings and other relatives would apply to adopted children. Also, the restrictions would continue to apply in relation to their natural relatives although they are no longer regarded as the child of their natural parent(s).

Would anyone know that you have been adopted?

Court proceedings in relation to adoptions are held in camera so members of the public and persons who are not connected with the case, or who are not needed cannot be present when the court hears adoption cases. The record of the adoption proceedings are to be kept sealed and confidential though a child may apply to the Court to have the records unsealed so that they could have information about their natural parents. This may become important in case of serious illness where a person would like to know their family history.

Do you have a right to know who your natural parents are?

You have a right to know who are your natural parents and your adoptive parents are to encourage a relationship with your natural parents.

Can an adoption order be revoked?

The Court may revoke an adoption order if it was obtained by fraud or if it is in the best interests of the child e.g. because the adoptive parents have abused or ill-treated the child or abused their parental rights or neglected their parental responsibilities. The Court is to take into consideration the views of the child in deciding whether to revoke an adoption order.

Where the Court revokes an adoption order, the adoptive parents would no longer be considered the child's parents. The Court would then make other necessary decisions on the welfare of the child, including restoring the parental rights of the child's natural parents, and issues such as what name the child should use.

It is an offence to:

1. advertise that you want to adopt a child or that you are willing to make arrangements for the adoption of a child or that the parent(s) or guardian of a child would like to have the child adopted; or
2. give, or agree to offer, or to offer to make a payment or reward in connection with an adoption; or
3. receive, or agree to receive, or attempt to obtain such a payment or reward.

If any of these acts is committed, the person may be charged and placed before the Magistrates' Court by the Childcare and Protection Agency.



Glossary – Words in the Act you should know

Act – An Act is a law passed by the National Assembly and signed by the President. Everyone must do what the law says. An Act also guides us on what persons have a duty to do. So it is important to understand what the law says. If someone breaks the law then they can be arrested and charged and taken to court where a judge or magistrate can order that they pay a fine or be imprisoned. Persons who break the law can also be taken to court where a judge or magistrate can order that they must obey the law.

Adopter – A person who adopts a child takes a child into their family as their own child and becomes their parent. This person is then recognized as the child's legal parent.

Adoption Order - This is the Order of Court made by a Judge that declares that an adopter or adopters is/are a child's new parent(s).

Biological - A child's biological parents and relatives and the persons who are related to them by blood.

Child – In this Act a child is a person who is under the age of 18 years.

Guardian – This is a person who has care of a child instead of his/her parent(s).

Parent – This is the person who the law recognizes are being the child's main legal guardian who has parental rights and responsibilities to make sure that a child is lovingly cared for. Parents can be biological parents i.e. parents by blood or adoptive parents or step parents.

Parental rights – These are rights and responsibilities that parents have to make sure that their child or children are lovingly taken care of. They should make decisions that are in the best interests of their child or children.

Spouse – This is a person who is married to another person of the opposite sex and includes a man and a woman who are living together in a permanent relationship.

