

LAWS OF BRUNEI

CHAPTER 123 REGISTRATION OF ADOPTIONS

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CHAPTER 123
REGISTRATION OF ADOPTIONS

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REGISTRATION OF ADOPTIONS ACT

An Act to provide for the registration of adoptions

Commencement: 1st January 1962

Citation

1. This Act may be cited as the Registration of Adoptions Act.

Interpretation

2. In this Act, unless the context otherwise requires —

“guardian” means the person having the legal right to the custody of the child;

“Registrar” means a Registrar of Adoptions appointed under section 4 and includes a Deputy Registrar;

“Registrar General of Adoptions” means the person appointed to be Registrar of Births and Deaths for Brunei Darussalam under section 3 of the Registration of Births and Deaths Act (Chapter 79).

Registrar General of Adoptions

3. The Registrar General of Adoptions shall have general charge and supervision of all registers of adoptions kept under this Act and all Registrars of Adoptions shall be subject to his directions for the purposes of this Act.

Appointment of Registrars of Adoptions

4. His Majesty the Sultan and Yang Di-Pertuan may appoint so many public officers, by name or by office —

(a) to be Registrars of Adoptions for Brunei Darussalam or for such area as may be specified in the appointment for the purposes of this Act; or

(b) to be and to act as the Deputy of any such Registrar when such Registrar is absent from Brunei Darussalam or his area or is ill or when his office is temporarily vacant.

Registrar's register and notebook

5. Every Registrar appointed under this Act shall keep —

(a) a register in the form in Schedule 2 and he shall enter therein the particulars to be registered concerning the adoption; and

(b) a book to be called the Registrar's notebook in which he shall record in his own hand all proceedings in respect of the registration of any adoption, the details of the identity of the adopted child, the name of the person adopting it, the name of the person, if any, consenting to the adoption and all evidence taken by him in any such proceedings under this Act.

Registration of *de facto* adoptions

6. (1) An application for registration of a *de facto* adoption shall be made to the Registrar in the form in Schedule 1.

(2) The Registrar shall register a *de facto* adoption by entering the particulars thereof in the Register.

Copies of registration to be delivered to applicants

7. (1) Upon the registration of an adoption in accordance with the provisions of section 6 —

(a) a certified copy of the entry in the register signed by the Registrar shall be delivered or sent to the person or spouses who applied for such registration; and

(b) a certified copy of the entry in the register shall be sent, within such period as may be prescribed, to the Registrar General of Adoptions,

and all such certified copies shall constitute the adoption register of the Registrar General of Adoptions.

(2) (a) If the particulars contained in a certified copy of the entry in the register in respect of any adoption, upon being forwarded to the Registrar General of Adoptions in accordance with the provisions of subsection (1), appear to the Registrar General of Adoptions to be identical with those of an adoption the registration of which has been cancelled in accordance with the provisions of this Act, he shall return

the said certified copy to the Registrar by whom it was sent together with particulars of the adoption the registration of which has been cancelled.

(b) The Registrar shall thereupon call upon the parties to show cause why the registration of the adoption should not be cancelled and if the parties fail to show cause, the Registrar shall cancel the registration of the adoption.

Parties and witnesses bound to speak truth

8. (1) Every person who gives evidence before the Registrar shall be bound to state the truth and to answer truthfully all questions which the Registrar may put to him.

(2) Any person who gives any evidence in any inquiry under this Act which he knows to be untrue, or who does any other act, which if done in a judicial proceeding would be an offence punishable under Chapter XI of the Penal Code (Chapter 22), shall be punishable on conviction as provided in that Chapter in the same way as if the act had been done in or in relation to a judicial proceeding.

9. *(No section).*

Refusal of registration

10. (1) If the Registrar is not satisfied of the truth of any statement made to him, he may —

(a) refuse to register the adoption; or

(b) if he requires evidence with regard to any particulars required to be registered, postpone the registration and call for any further evidence that he thinks necessary:

Provided that the Registrar shall record in the Registrar's notebook his reasons for any such refusal or postponement.

(2) *(Repealed).*

(3) The Registrar shall not register any adoption in respect of any person or of any child not ordinarily resident in Brunei Darussalam.

(4) The Registrar shall not register any adoption in respect of any child who has been the subject of an adoption order made in accordance with the provisions of any written law in force in Brunei Darussalam.

(5) There shall be no appeal from the cancellation by a Registrar of the registration of an adoption or from the refusal of a Registrar to register an adoption, but such refusal shall not prevent the Registrar or another Registrar from registering it if he is subsequently satisfied that the grounds for his refusal to register either did not exist or have since been removed.

Validity of adoption not affected by registration or non-registration

11. Neither the registration of nor the omission to register any adoption shall affect the validity of the adoption; and, provided that the identity of the adopted child, the person who adopted the child and the consenting parties are established with reasonable certainty by the particulars recorded in the Registrar's notebook, no error in the particulars recorded in the register nor any omission to record any particulars which ought to have been recorded shall affect the validity of the registration of the adoption.

Search for and certified copy of entry in adoption registers

12. (1) (a) The Registrar General of Adoptions and every Registrar shall cause indices to be made of the registers of adoptions kept by them.

(b) Any person upon application to the Registrar General of Adoptions or a Registrar, and upon payment of the prescribed fee shall be entitled to have a search made in the adoption register and index thereof, and to have a certified copy of any entry in such register.

(2) Every certified copy of any entry in a register of adoptions, if such copy purports to be signed by any person entrusted under this Act with the custody of any register of adoptions —

(a) shall be received for all purposes and in all courts as evidence of the adoption to which it relates; and

(b) where the entry contains a record of the date of the birth of that adopted child, shall be received not only as evidence of the adoption but also as evidence of the date of the birth of the adopted child, without further proof of such register or any entry therein or of such signature but not of the validity of such adoption:

Provided a court may, in the absence of any evidence to the contrary, presume any adoption so registered to have been valid and the onus of proving that there was no such valid adoption shall be on the person alleging it.

Amendment of register

13. (1) (a) Any Registrar having custody of a register in which an adoption has been registered in accordance with the provisions of this Act may, on application in the prescribed manner and on payment of the prescribed fee by the person or spouses who applied for such registration or by the child, amend the register by the correction of any error in the particulars contained therein.

(b) Where an entry in the register is so amended —

(i) a certified copy of the amended entry in the register signed by the Registrar shall be delivered or sent to the person or spouses or to the child; and

(ii) a certified copy of the amended entry in the register shall be sent, within such period as may be prescribed, to the Registrar General of Adoptions.

(2) (a) The Attorney General may apply to the Court of a Magistrate to cancel the registration of any adoption in such manner as may be provided by rules made under this Act.

(b) The Court shall send a copy of the order made in every such application to the Registrar by whom such adoption was registered and to the Registrar General of Adoptions and the register shall be amended by cancelling the registration of such adoption if the Court so orders.

(3) Where it is declared by a court of competent jurisdiction that an adoption registered in accordance with the provisions of this Act is invalid and the court so orders, a copy of the order shall be sent to the Registrar by whom such adoption was registered and to the Registrar General of Adoptions and the register shall be amended by cancelling the registration of such adoption.

(4) Any person, whether or not a party to the proceedings, who is aggrieved by any decision of a court under subsection (2) or (3) may appeal

to the High Court or to the Court of Appeal, as the case may be, and from the High Court to the Court of Appeal, in such manner as may be provided by any written law in force in Brunei Darussalam relating to appeals.

Offences and penalties

14. Any person who forges any entry in any register kept or any certified copy of any entry therein given under the provisions of this Act or who fraudulently or dishonestly uses as genuine any such certified copy which he knows or has reason to believe to be forged, is guilty of an offence punishable on conviction with the penalty provided in section 466 of the Penal Code (Chapter 22) for offences punishable under that section or under section 471 of the Penal Code (Chapter 22), as the case may be.

Registrars to be public servants

15. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of the Penal Code (Chapter 22).

Rules

16. His Majesty the Sultan and Yang Di-Pertuan in Council may make rules for the purposes of this Act and, without prejudice to the generality of the foregoing provisions, may in particular make rules —

- (a) prescribing the fees to be charged under this Act;
- (b) prescribing the manner in which the Registrars shall exercise the powers conferred upon them by this Act;
- (c) providing for the supply and custody of all registers and Registrar's notebooks kept under the provisions of this Act and their disposal; and
- (d) generally for carrying out the purposes of this Act.

SCHEDULE 1

(section 6(1))

APPLICATION FOR REGISTRATION OF *DE FACTO* ADOPTION

BRUNEI DARUSSALAM

Registration of Adoptions Act (Chapter 123)

APPLICATION FOR REGISTRATION OF ADOPTION

See Notes (i), (ii), (iii) and (viii)

Application for the registration of the adoption of a child named
(i) formerly
(ii)

I, the undersigned born in
..... race religion (if any)
..... ordinarily resident at

And I, the undersigned his/her wife/husband born in
..... race religion (if any)
..... ordinarily resident in
hereby state:

See Note (iv)

(1) I am/ We are desirous that the adoption of
a child of the sex, and of the
race, and religion (if any) ordinarily resident at
..... hereinafter called “the child” be registered under the
provisions of the Registration of Adoptions Act.

See Notes (v) and (vi)

(2) The father of the child is
race religion (if any)
born in and now resident at
whose written consent is appended hereto; and the mother of the child is
..... race religion (if any)
..... born in and now resident at
whose written consent to the adoption is appended
hereto.

SCHEDULE 1 — (continued)

See Note (vii)

(3) The child was born on the day of 20 and is (a) identical with the child to whom the attached certified copy of an entry in the register of births relates; or (b) is identical with the child to whom the attached statutory declaration relates.

(4) The child is ordinarily resident in Brunei Darussalam and has never been married.

(5) *(Deleted)*.

See Note (vii)

(6) The guardian of the child is of the race and the religion (if any) born in..... now resident at whose written consent to the adoption is appended hereto.

(7) I, am by occupation and am ordinarily resident in Brunei Darussalam.

(8) *(Deleted)*.

(9) *(Deleted)*.

See Note (ix)

(10) (a) I/We have not agreed to make any payments to the parent(s)/guardian(s) of this child.

(b) I/We have agreed to give remuneration to the parent(s)/guardian(s) as under

SCHEDULE 1 — (continued)

(c) I/We have not received or agreed to receive any payment or other reward in consideration of the adoption of this child except

See Note (x)

(11) I/We have/have not made previous application under the said Act in respect of the child to any Registrar.

I do/We do each of us severally solemnly and sincerely declare that the particulars contained in this application are true and I/We each of us severally make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act (Chapter 12).

Subscribed and solemnly declared by the abovenamed
.....
at
in Brunei Darussalam this
.....
day of
20

Before me,

}
Signature(s) of Applicant(s)
}
Registrar of Adoptions

Interpreted by me and signed in my presence.

Interpreter

SCHEDULE 1 — *(continued)*

Notes:

- (i) Insert name or names by which the child is to be known.
- (ii) Delete where there is no change of name. Where there is a change of name insert former name, including surname.
- (iii) Where the application is made by two spouses jointly the form should be modified, and where the form requires particulars of the applicant to be given, particulars should be given as regards each of the persons by whom the application is made.
- (iv) Insert name or names by which the child is to be known.
- (v) Where a parent of a child is dead the parent's name should be given and the fact stated.
- (vi) If a written consent is not appended the form should be modified so as to indicate that the applicant desires the Registrar to dispense with the consent of the person or body concerned.
- (vii) A certified copy of the entry of the child's birth in the register of births is required to be appended to the application in all cases where it can be obtained, or failing this, an affidavit certifying the age and place of birth of the child.
- (viii) This form is required to be completed in duplicate but the documents appended are not required to be in duplicate.
- (ix) There should be inserted here any gifts made or received by the applicant, parent or guardian or any other interested party.
- (x) If a previous application has been made, full particulars thereof must be given.

SCHEDULE 2

(section 5)

FORM OF ENTRY IN REGISTRATION OF ADOPTION REGISTER

No. of Entry	Date and place and country of birth of child	Adoptive name and surname of child	Sex of child	Name and surname, full address and occupation of adopter(s)	Date and place of registration of adoption and name of Registrar	Signature of Registrar