



Jersey

# **ADOPTION (JERSEY) LAW 1961**

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Jersey

## ADOPTION (JERSEY) LAW 1961

### Arrangement

#### Article

<b>PART 1</b>	<b>7</b>
GENERAL	7
1 Interpretation.....	7
2 Establishment of Adoption Service .....	9
3 Duty to promote welfare of infant .....	10
4 Religious upbringing of adopted child.....	10
5 Duty to use approved adoption societies .....	10
6 Restriction on arranging adoptions and placing of children .....	10
7 Adoption Panel.....	11
8 Delegation to the Panel .....	11
9 Allowances.....	11
<b>PART 2</b>	<b>11</b>
MAKING OF ADOPTION ORDERS	11
10 Power to make adoption orders.....	11
11 Age and sex of applicant.....	12
11A Implementation of Convention .....	12
11B Central authority and accredited bodies.....	13
11C Convention adoption orders.....	13
12 Freeing infant for adoption .....	13
12A Progress reports to former parents .....	14
12B Revocation of Article 12 order .....	14
13 Parental agreement.....	16
14 Evidence of consent of parent or guardian .....	17
15 Infant to live with adopters and notification to Minister .....	17
16 Functions of Court as to adoption orders.....	18
17 Interim orders.....	18
18 Procedure .....	19
19 .....	19

<b>PART 3</b>	<b>19</b>
EFFECTS OF ADOPTION ORDERS	19
20 Consequences of adoption .....	19
21 Friendly societies, insurance, etc. ....	21
22 Orders and agreements for maintenance of illegitimate infants .....	21
23 Intestacies, etc. ....	21
<b>PART 4</b>	<b>23</b>
REGISTRATION	23
24 Adopted Children Register .....	23
25 Registration of adoptions .....	24
26 Amendment of orders and rectification of registers .....	25
27 Adoption Contact Register .....	26
28 Recording of change of name in Public Registry of Contracts .....	27
29 Registration of baptism.....	27
30 Disclosure of birth records of adopted infants.....	28
31 Legitimation: revocation of adoption orders and cancellations in registers.....	28
32 Legitimation: marking of entries on re-registration of births .....	29
<b>PART 5</b>	<b>29</b>
SUPERVISION OF CHILDREN AWAITING ADOPTION	29
33 Meaning of protected child .....	29
34 Duty to secure well-being of protected children.....	30
35 Power to inspect premises .....	30
36 Notices and information to be given to the Minister .....	30
37 .....	31
38 Offences in relation to protected children .....	31
<b>PART 6</b>	<b>31</b>
MISCELLANEOUS	31
39 Prohibition of certain payments.....	31
39A Restriction on bringing infants into Jersey for adoption .....	32
39B Annulment etc. of overseas adoptions .....	32
39C Effect of determination and orders made in other parts of the British Islands and overseas .....	33
40 Restriction on removal of infants for adoption outside British Islands .....	33
41 Provisional adoption by persons domiciled outside Jersey .....	33
42 Orders .....	34
43 Service of notices, etc. ....	34
44 Extension of enactments referring to adoption .....	35
45 Evidence of adoptions, etc. ....	35
46 Registration of adoptions outside Jersey .....	35
47 Citation .....	36

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<b>SCHEDULE 1</b>	<b>37</b>
<hr/>	
FORM OF ENTRY IN ADOPTED CHILDREN REGISTER	37
 <b>SCHEDULE 2</b>	 <b>38</b>
<hr/>	
CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION	38

## **Supporting Documents**

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<b>ENDNOTES</b>	<b>49</b>
<hr/>	
Table of Legislation History .....	49
Table of Renumbered Provisions .....	49
Table of Endnote References .....	51





Jersey

**ADOPTION (JERSEY) LAW 1961<sup>1 2</sup>**

A **LAW** relating to the adoption of children

Commencement [[see endnotes](#)]

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**PART 1****GENERAL****1 Interpretation**

- (1) In this Law, unless the context otherwise requires –

“adoption order” means –

- (a) an order under Article 10(1); or
- (b) a Convention adoption order;

“Adoption Rules” has the meaning assigned to it by Article 18(2);

“Adoption Service” has the meaning assigned to it by Article 2(3) of this Law;

“approved adoption society” means –

- (a) the adoption service;
- (b) an adoption society approved under the Adoption Act 1976 (c.36) of the United Kingdom; and
- (c) the Committee of the States of Guernsey with responsibility for matters relating to the adoption of infants;

“Convention” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at The Hague on 29th May 1993;

“Convention adoption” means an adoption effected under the law of a Convention country outside the British Islands and certified in pursuance of Article 23(1) of the Convention;

“Convention adoption order” means an adoption order made in accordance with Article 11C of this Law;

“Convention country” means any country or territory in which the Convention is in force;

“Court” means the Inferior Number of the Royal Court;

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

“guardian” has the same meaning as in the Children (Jersey) Law 2002<sup>3</sup>;

“infant” means a person under the age of majority, but does not include a person who is or has been married;

“Minister” means the Minister for Health and Social Services;

“overseas adoption” means an adoption appearing to the Court to be effected under the law of any country outside the British Islands;

“panel” has the meaning assigned to it by Article 7;

“parent” means, in relation to an infant, any parent who has parental responsibility for the infant under the Children (Jersey) Law 2002; and

“parental responsibility” has the same meaning as in the Children (Jersey) Law 2002;

“prescribed” means prescribed by Adoption Rules;

“registered medical practitioner” means a physician or surgeon registered under the enactments for the time being regulating the exercise in Jersey of the profession of medical practitioner;

“relative”, in relation to an infant, means a grand-parent, brother, sister, uncle or aunt, whether of the full blood or half blood or by affinity, and includes –

- (a) where an adoption order has been made in respect of the infant or any other person by a court of competent jurisdiction in the British Islands any person who would be a relative of the infant within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock;
- (b) where the infant is illegitimate, the father of the infant and any person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of the infant’s mother and father.<sup>4</sup>

(2) <sup>5</sup>

- (3) For the purposes of this Law, a person shall be deemed to make arrangements for the adoption of an infant if the person enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the infant 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 the person 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 the person causes another to do so.



- (3A) In this Law, in determining with whom or where an infant has his or her home, any absence of the infant at a hospital or boarding school and any other temporary absence shall be disregarded.<sup>6</sup>
- (3B) In this Law, in relation to the proposed adoption of an infant resident outside the British Islands, references to arrangements for the adoption of an infant include references to arrangements for an assessment for the purpose of indicating whether a person is suitable to adopt an infant or not.<sup>7</sup>
- (3C) In this Law, in relation to –
- (a) an adoption proposed to be effected by a Convention adoption order; or
  - (b) an adoption of an infant habitually resident outside the British Islands which is proposed to be effected otherwise than by a Convention adoption order,
- references to an infant placed with any persons by an adoption agency include references to an infant who, in pursuance of arrangements made by such an agency, has been placed with those persons under the law of a country or territory outside the British Islands.<sup>8</sup>
- (4) This Law applies to citizens of the Republic of Ireland as it applies to British subjects, and references in this Law to British subjects shall be construed accordingly.
- (5) Any reference in this Law to any other enactment shall be construed as a reference to that enactment as amended by any subsequent enactment; and in this paragraph “enactment” includes an enactment of the United Kingdom.<sup>9</sup>

## **2 Establishment of Adoption Service<sup>10</sup>**

- (1) The Minister shall continue to maintain in Jersey a service designed to meet the needs, in relation to adoption, of –
- (a) infants who have been or may be adopted;
  - (b) parents and guardians of such infants; and
  - (c) persons who have adopted or may adopt an infant,
- and for that purpose shall continue to provide the facilities referred to in paragraph (2) of this Article, or secure that they are provided by another approved adoption society.<sup>11</sup>
- (2) The facilities to be provided as part of the service maintained under paragraph (1) include –
- (a) arrangements for assessing infants and prospective adopters, and placing infants for adoption;
  - (b) counselling for persons with problems relating to adoption.
- (3) The services maintained by the Minister under paragraph (1) may be collectively referred to as the “Adoption Service”.

- (4) In Articles 2 to 9 of this Law references to adoption are to the adoption of infants, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the British Islands.<sup>12</sup>

**3 Duty to promote welfare of infant<sup>13</sup>**

In reaching any decision relating to the adoption of infants the Court or the Minister shall have regard to all the circumstances, first consideration being given to the need to safeguard and promote the welfare of the infant throughout the infant's childhood, and shall, so far as practicable, ascertain the wishes and feelings of the infant regarding the decision and give due consideration to them, having regard to the infant's age and understanding.

**4 Religious upbringing of adopted child<sup>14</sup>**

The Minister shall in placing an infant for adoption have regard, so far as is practicable, to any wishes of an infant's parents and guardians as to the religious upbringing of the infant.

**5 Duty to use approved adoption societies<sup>15</sup>**

The Minister shall, if he or she cannot place an infant for adoption in Jersey or in Guernsey, use an adoption society approved under the Adoption Act 1976 (c.36) of the United Kingdom.

**6 Restriction on arranging adoptions and placing of children<sup>16</sup>**

- (1) A person other than the Minister shall not make arrangements for the adoption of an infant, or place an infant for adoption, unless –
- (a) the proposed adopter is a relative of the infant; or
  - (b) the proposed adopter is acting in pursuance of an order of the Court.
- (2) A person who –
- (a) takes part in the management or control of a body of persons which exists wholly or partly for the purpose of making arrangements for the adoption of infants;
  - (b) contravenes paragraph (1); or
  - (c) receives an infant placed with the person in contravention of paragraph (1),
- shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 3 on the standard scale or to both.
- (3) In any proceedings for an offence under paragraph (2)(a), proof of things done or of words written, spoken or published (whether or not in the presence of any party to the proceedings) by any person taking part in the management or control of a body of persons, or in making arrangements for the adoption of infants on behalf of the body, shall be admissible as evidence of the purpose for which that body exists.

**7 Adoption Panel<sup>17</sup>**

- (1) There is established an Adoption Panel (in this Law referred to as the “panel”) –
  - (a) to carry out such of the powers and duties of the Minister as may be determined pursuant to Article 8; and
  - (b) to recommend to the Minister where an allowance payable under Article 9 is appropriate.
- (2) Subject to paragraph (3), the panel shall comprise the Minister or such officers in the employment of an administration of the States for which the Minister is assigned responsibility, and such members of the public, as the Minister shall from time to time think fit.
- (3) Nothing in paragraph (2) shall be construed as a requirement that the Minister shall at all times be a member of the panel.

**8 Delegation to the Panel<sup>18</sup>**

The Minister may delegate to the panel such of his or her powers and duties in relation to the maintenance of the Adoption Service as the Minister may by Order determine.

**9 Allowances<sup>19</sup>**

The Minister may, after considering a recommendation of the panel, pay an allowance to persons who have adopted, or intend to adopt, infants, where the Minister is satisfied that such an adoption is not practicable without payment of an allowance.

**PART 2****MAKING OF ADOPTION ORDERS****10 Power to make adoption orders**

- (1) Subject to the provisions of this Law, the Court may, upon an application made in the prescribed manner –
  - (a) by a person domiciled in the British Islands; or
  - (b) jointly by 2 spouses at least one of whom is domiciled in the British Islands,make an order authorizing the applicant or, in the case of an application by 2 spouses, the applicants, to adopt the infant.<sup>20</sup>
- (2) Where the application is for a Convention adoption order and complies with Article 3C of this Law the requirements of paragraph (1) of this Article in respect of domicile shall not apply.<sup>21</sup>

- (3) An adoption order may be made authorizing the adoption of an infant by the mother or father of the infant, either alone or jointly with his or her spouse.
- (4) An adoption order may be made in respect of an infant who has already been the subject of an adoption order made by a court of competent jurisdiction whether in Jersey or elsewhere; and in relation to an application for an adoption order in respect of such an infant, the adopter or adopters under the previous or last previous adoption order shall be deemed to be the parent or parents of the infant for all the purposes of this Law.<sup>22</sup>
- (5) <sup>23</sup>

## **11 Age and sex of applicant**

- (1) Subject to paragraph (2), an adoption order shall not be made in respect of an infant unless the applicant –
  - (a) is the mother or father of the infant; or
  - (b) is a relative of the infant, and has attained the age of 20 years; or
  - (c) has attained the age of 25 years.
- (2) An adoption order may be made in respect of an infant on the joint application of 2 spouses –
  - (a) if either of the applicants is the mother or father of the infant; or
  - (b) if the condition set out in paragraph (1)(b) or (c) is satisfied in the case of one of the applicants, and the other of them has attained the age of 20 years.
- (3) An adoption order shall not be made in respect of a female infant 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.

## **11A Implementation of Convention<sup>24</sup>**

- (1) Subject to the provisions of this Law, the Minister may by Order make provision for giving effect to the Convention, and such provision may include amendments to this Law.
- (2) The text of the Convention (so far as material) is set out in Schedule 2.
- (3) An Order under this Article may provide that any person who contravenes or fails to comply with any provision of the Order shall be guilty of an offence and liable to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 4 on the standard scale, or both.
- (4) Any power to make subordinate legislation under or for the purposes of this Law includes power to do so with a view to giving effect to the provisions of the Convention.

**11B Central authority and accredited bodies<sup>25</sup>**

- (1) The Minister shall discharge the Central Authority's functions under the Convention but any of its functions under Articles 8, 9 or 15 to 21 of the Convention may be discharged by an accredited body on the Minister's behalf.
- (2) An approved adoption society is an accredited body for the purposes of the Convention if the approval extends to the provision of facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.

**11C Convention adoption orders<sup>26</sup>**

An adoption order shall be made as a Convention adoption order if –

- (a) the application is for a Convention adoption order; and
- (b) such requirements as may be prescribed by Order made by the Minister are complied with.

**12 Freeing infant for adoption<sup>27</sup>**

- (1) Where, on an application by the Minister, the Court is satisfied in the case of each parent or guardian of the infant that –
  - (a) the person freely, and with full understanding of what is involved, agrees generally and unconditionally to the making of an adoption order; or
  - (b) the person's agreement to the making of an adoption order should be dispensed with on a ground specified in Article 13(2),the Court shall make an order declaring the infant free for adoption.
- (2) No application shall be made under paragraph (1) unless –
  - (a) it is made with the consent of a parent or guardian of an infant; or
  - (b) the Minister is applying for dispensation under paragraph (1)(b) of the agreement of each parent or guardian of the infant, and the infant is in the care of the Minister.
- (3) No agreement required under paragraph (1)(a) shall be dispensed with under paragraph (1)(b) unless the infant is already placed for adoption or the Court is satisfied that it is likely that the infant will be placed for adoption.
- (4) An agreement by the mother of the infant is ineffective for the purposes of this Article if given less than 6 weeks after the infant's birth.
- (5) On the making of an order under this Article parental responsibility for the infant is given to the Minister and Article 20(2) applies as if the order were an adoption order and the Minister was the adopter.<sup>28</sup>
- (6) Before making an order under this Article, the Court shall satisfy itself, in relation to each parent or guardian of the infant who can be found, that the person has been given an opportunity of making, if the person so

wishes, a declaration that he or she prefers not to be involved in future questions concerning the adoption of the infant, and any such declaration shall be recorded by the Court.

- (7) Before making an order under this Article in the case of an infant whose father does not have parental responsibility for the infant, the Court shall satisfy itself in relation to any person claiming to be the father that –
- (a) the person has no intention of applying within the next 6 months for an order under Article 5 of the Children (Jersey) Law 2002 or a residence order under Article 10 of that Law; or
  - (b) if the person did make any such application, it would be likely to be refused.<sup>29</sup>
- (8) An order under this Article may be made in respect of an infant who has already been the subject of an adoption order made by a court of competent jurisdiction whether in Jersey or elsewhere.<sup>30</sup>

#### **12A Progress reports to former parents<sup>31</sup>**

- (1) Within 14 days following the date 12 months after the making of an order under Article 12, the Minister, unless he or she has previously by notice to the former parent informed him or her that the infant has been adopted, shall inform that parent by notice –
- (a) whether the infant has been adopted; and
  - (b) if the infant has not been adopted whether he or she has his or her home with a person with whom he or she has been placed for adoption.
- (2) Where a notice has been given as described in paragraph (1)(b) the Minister shall inform the former parent by notice –
- (a) if and when the infant is adopted; and
  - (b) if the infant ceases to have his or her home with a person with whom he or she has been placed for adoption.
- (3) If at any time the former parent by notice makes a declaration to the Minister that he or she prefers not to be involved in future questions concerning the adoption of the infant –
- (a) the Minister shall secure that the declaration is recorded by the Court; and
  - (b) the Minister shall be released from any further requirements under paragraph (2).
- (4) In this Article and Article 12B of this Law “former parent” means any person required to be given an opportunity of making a declaration under Article 12(6) but who did not do so.

#### **12B Revocation of Article 12 order<sup>32</sup>**

- (1) Where at any time more than 12 months after the making of an order under Article 12 of this Law (an “Article 12 order”), if the infant –
- (a) has not been adopted; and

- 
- (b) does not have his or her home with a person with whom he or she has been placed for adoption,
- his or her former parent may apply to the Court for an order revoking the Article 12 order on the ground that he or she wishes to resume parental responsibility.
- (2) While an application under this Article is pending the Minister shall not place the infant for adoption without the leave of the Court.
- (3) The revocation of an Article 12 order operates –
- (a) to extinguish the parental responsibility given to the Minister;
- (b) to give parental responsibility to the infant's mother and, where the infant's father and mother were married at the time of the infant's birth, the infant's father; and
- (c) to revive –
- (i) any parental responsibility agreement,
- (ii) any order pursuant to Article 5 of the Children (Jersey) Law 2002 that the father shall have parental responsibility for the infant, and
- (iii) any appointment of a guardian in respect of the infant (whether made by a court or otherwise),
- extinguished by the making of the Article 12 order.
- (4) Subject to paragraph (3)(c), the revocation does not –
- (a) operate to revive –
- (i) any order under the Children (Jersey) Law 2002; or
- (ii) any duty referred to in Article 20(2)(a)(iii) of this Law,
- extinguished by the making of the Article 12 order; or
- (b) affect any person's parental responsibility so far as it relates to the period between the making of the Article 12 order and the date of revocation of that order.
- (5) Subject to paragraph (6), where the Court dismisses an application under this Article on the grounds that to allow it would contravene the principle embodied in Article 3 of this Law –
- (a) the applicant shall not be entitled to make a further application in respect of the infant; and
- (b) the Minister shall be released from the duty of complying further with Article 12A(2) as respects that parent.
- (6) Paragraph (5)(a) shall not apply where the Court gives leave to the former parent to make a further application to revoke the Article 12 order, but such leave shall not be given unless it appears to the Court that because of a change in circumstances or for any other reason it is proper to allow the application to be made.

**13 Parental agreement<sup>33</sup>**

- (1) An adoption order shall not be made unless –
  - (a) the infant is free for adoption by virtue of an order made under Article 12 or by order of a court of competent jurisdiction in any other part of the British Islands; or
  - (b) in the case of each parent or guardian of the infant the Court is satisfied that –
    - (i) the parent or guardian freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order, whether or not he or she knows the identity of the applicants, or
    - (ii) the parent or guardian's agreement to the making of the adoption order should be dispensed with on a ground specified in paragraph (2).<sup>34</sup>
- (2) The grounds mentioned in paragraph (1)(b)(ii) are that the parent or guardian –
  - (a) cannot be found or is incapable of giving agreement;
  - (b) is withholding his or her agreement unreasonably;
  - (c) has persistently failed without reasonable cause to exercise his or her rights, duties, obligations and liabilities as a parent or guardian in respect of the infant;
  - (d) has abandoned or neglected the infant;
  - (e) subject to paragraph (4) has persistently ill-treated the infant;
  - (f) has seriously ill-treated the infant;
  - (g) is incapable of caring for the infant or is of such habits or mode of life as to be unfit to have the care of the infant.<sup>35</sup>
- (3) Agreement is ineffective for the purposes of paragraph (1)(b)(i) if given by the mother less than 6 weeks after the infant's birth.<sup>36</sup>
- (4) Paragraph (2)(e) does not apply unless because of the ill-treatment or for other reasons, the rehabilitation of the infant within the household of the parent, or guardian is unlikely.
- (5) Where there has been a finding by a court of competent jurisdiction as to any grounds specified in paragraph (2)(c), (d), (e), (f) or (g) in the course of earlier proceedings to which the parent or guardian was given the opportunity of being a party, that finding shall be sufficient but not conclusive evidence of those grounds.
- (6) Before making an adoption order in the case of an infant whose father does not have parental responsibility for the infant, the Court shall satisfy itself in relation to any person claiming to be the father that –
  - (a) he has no intention of applying within the next 6 months for an order under Article 5 of the Children (Jersey) Law 2002 or a residence order under Article 10 of that Law; or
  - (b) if he did make any such application, it would be likely to be refused.<sup>37</sup>



**14 Evidence of consent of parent or guardian**

- (1) Where a parent or guardian of an infant does not attend in the proceedings on an application for an adoption order for the purpose of giving his or her consent to the making of the order, a document signifying his or her consent to the making of such an order shall –
  - (a) if the person in whose favour the order is to be made is named in the document or (where the identity of that person is not known to the consenting party) is distinguished therein in the prescribed manner; and
  - (b) if the document is attested by a person of any such class as may be prescribed,be admissible as evidence of that consent and of the signature of the document by the person by whom it is executed:

Provided that a document signifying the consent of the mother of an infant shall not be admissible under this Article unless the infant is at least 6 weeks old on the date of the execution of the document.
- (2) For the purposes of this Article, a document purporting to be attested in the manner provided by paragraph (1) shall be deemed to be so attested, and to be executed and attested on the date and at the place specified in the document, unless the contrary is proved.

**15 Infant to live with adopters and notification to Minister<sup>38</sup>**

- (1) An adoption order shall not be made unless the infant, at all times during the preceding 3 months (not counting any time before he or she attained the age of 6 weeks), had his or her home with the applicant (or, in the case of an application by 2 spouses, one of the applicants).<sup>39</sup>
- (2) Except where the applicant or one of the applicants is a parent of the infant, an adoption order shall not be made unless the applicant has, at least 3 months before the date of the order, given notice in writing to the Minister of his or her intention to apply for an adoption order in respect of the infant.<sup>40</sup>
- (3) Where an application for an adoption order in respect of an infant is pending, a parent or guardian of the infant who has signified his or her 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 infant from his or her home with the applicant, and in considering whether to grant or refuse such leave the Court shall have regard to the welfare of the infant.<sup>41</sup>
- (4) In relation to –
  - (a) an adoption proposed to be effected by a Convention adoption order; or
  - (b) an adoption of an infant habitually resident outside the British Islands which is proposed to be effected otherwise than by a Convention adoption order,

paragraph (1) shall have effect as if the reference to the preceding 3 months were a reference to the preceding 6 months.<sup>42</sup>

## **16 Functions of Court as to adoption orders**

- (1) The Court before making an adoption order shall be satisfied –
  - (a) that every person whose consent is necessary under this Law, 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 extinguish his or her parental responsibility for the infant;
  - (b) that the order if made will be for the welfare of the infant; and
  - (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.<sup>43</sup>
- (2) In determining whether an adoption order if made will be for the welfare of the infant, 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 registered medical practitioner, and shall give due consideration to the wishes of the infant, having regard to the infant's age and understanding.
- (3) 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 infant such provision (if any) as in the opinion of the Court is just and expedient.

## **17 Interim orders**

- (1) Subject to the provisions of this Article, the Court may, upon any application for an adoption order, postpone the determination of the application and make an interim order giving parental responsibility for the infant to the applicant for a period not exceeding 2 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 infant and otherwise as the Court may think fit.<sup>44</sup>
- (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 in any case where the making of an adoption order would be unlawful by virtue of Article 15.
- (4) Where an interim order has been made giving parental responsibility for an infant to the applicant for a period of less than 2 years, the Court may by order extend that period, but the total period for which the custody of the infant is given to the applicant under the order as varied under this paragraph shall not exceed 2 years.<sup>45</sup>

- (5) An interim order shall not be deemed to be an adoption order within the meaning of this Law.

## **18 Procedure**

- (1) In this Law “Adoption Rules” means rules made under paragraph (2).
- (2) Rules in regard to any matter to be prescribed under this Law and dealing generally with all matters of procedure and incidental matters arising out of this Law and for carrying this Law into effect shall be made by the Superior Number of the Royal Court.
- (3) Adoption Rules may provide for applications for adoption orders to be heard and determined otherwise than in open court.
- (4) Article 3 of the Official Publications (Jersey) Law 1960<sup>46</sup>, shall apply to Adoption Rules as it applies to enactments mentioned in that Article and, accordingly, as soon as may be after any such rules are made, the Judicial Greffier shall transmit a certified copy thereof to the Greffier of the States.
- (5) In all proceedings, whether oral or written, under this Law, any member of the Court and any party or person engaged or concerned in such proceedings or giving evidence therein may use the English language.
- (6) For the purposes of any application for an adoption order, the Court shall, subject to Adoption Rules, appoint some person or body to act as guardian *ad litem* of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the Court.
- (7) Adoption Rules may make provision –
- (a) as to the form of a direction under Article 20(5) or an application for such a direction;
  - (b) as to the information required to be given by an applicant for such a direction;
  - (c) as to the persons who are to be parties to proceedings on an application under that paragraph; and
  - (d) requiring notice of an application under that paragraph to be served on the Attorney General and on persons who may be affected by the direction.<sup>47</sup>

19 <sup>48</sup>

## **PART 3**

### **EFFECTS OF ADOPTION ORDERS**

## **20 Consequences of adoption<sup>49</sup>**

- (1) An adopted infant shall be treated in law –

- (a) where his or her adopters are a married couple, as if he or she had been born as a child of the marriage (whether or not he or she was born after that marriage); and
  - (b) in any other case as if he or she had been born to the adopter in wedlock (but not as a child of any actual marriage of the adopter).<sup>50</sup>
- (1A) An adopted infant shall be treated in law as if he or she were not a child of any person other than any adopter.<sup>51</sup>
- (1B) In the case of an infant adopted solely by a natural parent, paragraph (1A) has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.<sup>52</sup>
- (2) Where an adoption order is made –
  - (a) the following are extinguished –
    - (i) the parental responsibility which any person has for the infant immediately before the making of the order,
    - (ii) any order under the Children (Jersey) Law 2002 unless the court directs otherwise, and
    - (iii) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the infant's maintenance or upbringing for any period after the making of the order, unless made under an agreement which constitutes a trust or expressly provides that the duty is not to be extinguished by the making of an adoption order; and
  - (b) the adopter shall have parental responsibility for the adopted infant.<sup>53</sup>
- (3) Where it becomes necessary to appoint a guardian for an adopted child, the adopter or adopters and the relatives of the adopter or adopters shall, in all matters appertaining to the formation of the guardianship, be deemed to be the relatives of the adopted child, and, where an adoption order is made in respect of an infant who is under guardianship, the Court shall order that the guardianship be reconstituted unless it is of the opinion that it is in the interests of the child that the guardianship be maintained.
- (4) For the purposes of the law relating to marriage, an adopter and the person whom the adopter has been authorized to adopt under an adoption order shall be deemed to be within the prohibited degrees of consanguinity; and the provisions of this paragraph shall continue to have effect notwithstanding that some person other than the adopter is authorized by a subsequent order to adopt the same infant.
- (5) Where, in the case of an infant adopted under a Convention adoption, the Court is satisfied, on an application under this paragraph –
  - (a) that under the law of the country in which the adoption was effected the adoption is not a full adoption;
  - (b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption, or that Jersey

is not the receiving State (within the meaning of Article 2 of the Convention); and

- (c) that it would be more favourable to the infant for a direction to be given under this paragraph,

the court may direct that the adoption shall have effect other than as a full adoption.<sup>54</sup>

- (6) In paragraph (5) “full adoption” means an adoption by virtue of which the infant falls to be treated in law as if he or she were not the infant of any person other than the adopters or adopter.<sup>55</sup>

## **21 Friendly societies, insurance, etc.**

- (1) For the purposes of the enactments for the time being in force relating to friendly societies, collecting societies or industrial insurance companies, an adopter shall be deemed to be the parent of the infant whom the adopter is authorized to adopt under an adoption order.
- (2) Where, before the making of an adoption order in respect of an infant, the natural parent of the infant has effected an insurance with any such society or company for the payment, on the death of the infant, of money for funeral expenses, 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 the said enactments, be treated as the person who took out the policy.
- (3) In this Article “adoption order” means an adoption order made by a court of competent jurisdiction whether in Jersey or elsewhere.<sup>56</sup>

## **22 Orders and agreements for maintenance of illegitimate infants**

- (1) Where an adoption order is made in respect of an infant who is illegitimate, then, unless the adopter is the infant’s mother and the mother is a single woman, any order or agreement whereby the father of the infant is required or has undertaken to make payments specifically for the benefit of the infant, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the order or agreement at the date of the adoption order.
- (2) After an adoption order has been made in respect of an infant who is illegitimate, no order requiring the father of the infant to make payments specifically for the benefit of the infant shall be made unless the adoption order was made on the application of the mother of the infant alone.

## **23 Intestacies, etc.<sup>57</sup>**

- (1) 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 personal property subject to an entailed interest under a disposition to which paragraph (3) does not apply), 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.

- (2) For all the purposes of the law relating to the indefeasible right of a person to succeed to the personal property of the person's ascendants, an adopted person shall be deemed to be the child of the adopter born in lawful wedlock and 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 (including codicil), after the date of an adoption order –
  - (a) any reference (whether express or implied) to the child or children of the adopter shall, unless the contrary intention appears, 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, unless the contrary intention appears, 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, unless the contrary intention appears, be construed as a reference to the person who would be related to the adopted person in that degree if the adopted person were the child of the adopter born in lawful wedlock and were not the child of any other person.
- (4) For the purposes of paragraph (3), a disposition made by will or codicil shall be treated as made on the date of the death of the testator.
- (5) For the avoidance of doubt, it is hereby declared that an adopted child born before a natural child shall rank as principal heir in preference to the natural child.
- (6) In the application of the law regarding the devolution of acquired real property (*acquêts*) and personal property (*meubles*) and for the purposes of the construction of any such disposition as is mentioned in this Article, 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 the adopted person was adopted by 2 spouses jointly, and that other person is the child or adopted child of both of them, as brother or sister of the whole blood;
  - (b) in any other case, as brother or sister of the half-blood.
- (7) Notwithstanding anything in this Article, an executor of the will or an administrator of the personal estate of a deceased person may distribute any 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 the executor of the will or an administrator of the personal estate has not had notice at the time of the distribution; but nothing in this paragraph 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 acquired it by means of devolution or descent.

- (8) 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 this Article in relation to the devolution of any property on the intestacy of, or any right to the personal property of, any person dying after the date of the subsequent adoption order, and in relation to any disposition of property made, or taking effect on the death of a person dying, after that date.
- (9) References in this Article to an adoption order and to an adopted person include references to an adoption order made before 24th November 1963 either under this Law or under the Adoption of Children (Jersey) Law 1947 and to a person adopted under such an order, but nothing in this Article shall affect the devolution of any property on the intestacy of, or any right to the personal property of, any person who died before that date, or affect any disposition made before that date.<sup>58</sup>
- (10) In this Article “adoption order” means an adoption order made by a court of competent jurisdiction whether in Jersey or elsewhere.<sup>59</sup>

## PART 4

### REGISTRATION

#### 24 Adopted Children Register

- (1) The Superintendent Registrar shall maintain a register, to be called the Adopted Children Register, in which shall be made such entries as may be –
  - (a) directed to be made in it by adoption orders; or
  - (b) required to be made under Article 25,and no other entries shall be made.<sup>60</sup>
- (2) A certified copy of an entry in the Adopted Children Register, if purporting to be signed by the Superintendent Registrar shall, without any further or other proof of that entry, be received as evidence of the adoption to which it relates and, where the entry contains a record of the date of the birth or the country or the parish of the birth of the adopted person, shall also be received as aforesaid as evidence of that date or country or parish in all respects as if the copy were a certified copy of an entry in the Registers of Births.
- (3) The Superintendent Registrar shall cause an index of the Adopted Children Register to be made and kept in the Superintendent Registrar’s office and every person shall be entitled to search that index and to have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms and conditions as to payment of fees and otherwise as are applicable under the Marriage and Civil Status (Jersey) Law 2001<sup>61</sup> in respect of searches in other indexes kept in the office of the Superintendent Registrar and in respect of the supply by the Superintendent Registrar of certified copies of entries in the Registers of Births, Deaths and Marriages.<sup>62</sup>

- (4) The Superintendent Registrar shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection between any entry in the Registers of Births which has been marked “Adopted” pursuant to Article 25 or any enactment at the time in force, and any corresponding entry in the Adopted Children Register.
- (5) The registers and books kept under paragraph (4) shall not be, nor shall any index thereof be, open to public inspection or search and, except under an order of the Royal Court, the Superintendent Registrar shall not furnish any person with any information contained in or with any copy or extract from any such registers or books.

## **25 Registration of adoptions**

- (1) Every adoption order shall contain a direction to the Superintendent Registrar to make in the Adopted Children Register an entry in the form set out in Schedule 1, and (subject to paragraph (2)) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.
- (2) For the purpose of compliance with the requirements of paragraph (1) –
  - (a) where the precise date of the infant’s birth is not proved to the satisfaction of the Court, the Court shall determine the probable date of the infant’s birth and the date so determined shall be specified in the order as the date of the infant’s birth;
  - (b) where the country of birth of the infant is not proved to the satisfaction of the Court, then, if it appears probable that the infant was born within the United Kingdom, the Channel Islands or the Isle of Man, the infant shall be treated as having been born in Jersey, and in any other case the particulars of the country of birth may be omitted from the order and from the entry in the Adopted Children Register,

and the names to be specified in the order as the name and surname of the infant shall be the name or names and surname stated in that behalf in the application for the adoption order, or, if no name or surname is so stated, the original name or names of the infant and the surname of the applicant.

- (3) The particulars to be entered in the Adopted Children Register under the heading in column 2 of Schedule 1 shall include, in the case of an infant born in Jersey, the parish in which the birth took place; and where the infant was born in Jersey but the parish in which the birth took place is not proved to the satisfaction of the Court, or where the infant is treated by virtue of paragraph (2)(b) as born in Jersey, the infant shall be treated for the purposes of this paragraph as born in the parish of St. Helier.
- (4) Where upon any application for an adoption order in respect of an infant (not being an infant who has previously been the subject of an adoption order under this Law or the Adoption of Children (Jersey) Law 1947),<sup>63</sup> there is proved to the satisfaction of the Court the identity of the infant with a child to whom an entry in the Registers of Births relates, any adoption order made in pursuance of the application shall contain a



direction to the Superintendent Registrar to cause the entry in the Registers of Births to be marked with the word “Adopted”.

- (5) Where an adoption order is made in respect of an infant who has previously been the subject of an adoption order made under this Law or any enactment at the time in force, the order shall contain a direction to the Superintendent Registrar to cause the previous entry in the Adopted Children Register to be marked with the word “Re-adopted”.
- (6) The Judicial Greffier shall cause every adoption order to be communicated to the Superintendent Registrar, and upon receipt of the communication the Superintendent Registrar shall cause compliance to be made with the directions contained in the order.
- (7) If the Superintendent-Registrar is satisfied, on an application under this paragraph, that he or she has sufficient particulars relating to an infant adopted under a Convention or overseas adoption to enable an entry to be made in the Adopted Children Register for the infant –
  - (a) he or she shall make the entry accordingly; and
  - (b) if he or she is also satisfied that an entry in the Registers of Births relates to the infant, he or she shall secure that the entry in those Registers is marked “Adopted” or “Re-adopted”, as the case may be, followed by the name in brackets of the country in which the adoption was effected.<sup>64</sup>

## **26 Amendment of orders and rectification of registers**

- (1) The Court may, on the application of the adopter or of the adopted person, amend an adoption order by the correction of any error in the particulars contained therein, and may –
  - (a) if satisfied on the application of the adopter or of the adopted person that within one year beginning with the date of the order any new name has been given to the adopted person (whether in baptism or otherwise), or taken by the adopted person, either in lieu of or in addition to a name specified in the particulars required to be entered in the Adopted Children Register in pursuance of the order, amend the order by substituting or adding that name in those particulars, as the case may require;
  - (b) if satisfied on the application of any person concerned that a direction for the marking of an entry in the Registers of Births or the Adopted Children Register included in the order in pursuance of Article 25(4) or (5) was wrongly so included, revoke that direction.
- (2) Where an adoption order is amended or a direction revoked under paragraph (1), the Judicial Greffier shall cause the amendment to be communicated to the Superintendent Registrar, who shall –
  - (a) cause the entry in the Adopted Children Register to be amended accordingly; or
  - (b) cause the marking of the entry in the Registers of Births or the Adopted Children Register to be cancelled.

- (3) Where an adoption order has been amended, any certified copy of the relevant entry in the Adopted Children Register which may be issued pursuant to Article 24(3) shall be a copy of the entry as amended, without the reproduction of any note or marking relating to the amendment or of any matter cancelled pursuant thereto; and a copy or extract of an entry in any register, being an entry the marking of which has been cancelled, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.
- (4) If the Superintendent-Registrar is satisfied –
- (a) that a Convention adoption, a Convention adoption order or an overseas adoption has ceased to have effect, whether on annulment or otherwise; or
  - (b) that any entry or mark was erroneously made in pursuance of Article 25(7) in any register mentioned in that paragraph,
- he or she may cause such alterations to be made in that register as he or she considers are required in consequence of the cesser or to correct the error; and where an entry in the register is amended in pursuance of this paragraph, any copy or extract of the entry shall be deemed to be accurate if and only if it shows the entry as amended but without indicating that it has been amended.<sup>65</sup>

## **27 Adoption Contact Register<sup>66</sup>**

- (1) In this Article –
- (a) “relative” means any person, other than an adoptive relative, who is related to the adopted person by blood or marriage; and
  - (b) “address” includes any address at or through which the person concerned may be contacted.
- (2) The Superintendent Registrar shall maintain at the Superintendent Registrar’s Office a register to be called the Adoption Contact Register.
- (3) The register shall be in 2 parts –
- (a) Part I: Adopted Persons; and
  - (b) Part II: Relatives.
- (4) The Superintendent Registrar shall, on payment of such fee as the Minister may by order prescribe, enter in Part I of the register the name and address of any adopted person who fulfils the conditions set out in paragraph (5) and who gives notice that he or she wishes to contact any relative of his or hers.<sup>67</sup>
- (5) The conditions referred to in paragraph (4) are that –
- (a) a record of the adopted person’s birth is kept by the Superintendent Registrar; and
  - (b) the adopted person has attained the age of 18 years and –
    - (i) has been supplied by the Superintendent Registrar with information under Article 30, or
    - (ii) has satisfied the Superintendent Registrar that the adopted person has such information as is necessary to enable the

adopted person to obtain a certified copy of the record of his or her birth.

- (6) The Superintendent Registrar shall, on payment of such fee as the Minister may by order prescribe, enter in Part II of the register the name and address of any person who fulfils the conditions set out in paragraph (7) and who gives notice that he or she wishes to contact an adopted person.<sup>68</sup>
- (7) The conditions referred to in paragraph (6) are that –
  - (a) a record of the adopted person's birth is kept by the Superintendent Registrar; and
  - (b) the person giving notice under paragraph (6) has attained the age of 18 years and has satisfied the Superintendent Registrar that –
    - (i) the person is a relative of the adopted person, and
    - (ii) the person has such information as is necessary to enable him or her to obtain a certified copy of the record of the adopted person's birth.
- (8) The Superintendent Registrar shall, on receiving notice from any person named in an entry in the register that he or she wishes the entry to be cancelled, cancel the entry.
- (9) Any notice given under this Article shall be in such form as may be determined by the Superintendent Registrar.
- (10) The Superintendent Registrar shall transmit to an adopted person whose name is entered in Part I of the register the name and address of any relative in respect of whom there is an entry in Part II of the register.
- (11) Any entry cancelled under paragraph (8) ceases from the time of cancellation to be an entry for the purposes of paragraph (10).
- (12) The register shall not be open to public inspection or search and the Superintendent Registrar shall not supply any person with information entered in the register whether in an uncanceled or a cancelled entry except in accordance with this Article.
- (13) The register may be kept by means of a computer.

## **28 Recording of change of name in Public Registry of Contracts**

Where, by virtue of Article 25 or 26, the name of an adopted child is changed, then, if the name of the child is recorded in the books of the Public Registry of Contracts, the Judicial Greffier shall record the change of name in those books in such manner as the Court may direct.

## **29 Registration of baptism**

Where a child in respect of whom an adoption order has been made is baptised, the entry to be made in the Register of Baptisms shall describe the child as the adopted son or daughter of the person or persons by whom the adopted person was adopted, instead of as the son or daughter of the natural parents.

**30 Disclosure of birth records of adopted infants<sup>69</sup>**

- (1) Subject to this Article, the Superintendent Registrar shall on an application made in such manner as the Minister may by order prescribe by an adopted person a record of whose birth is kept by the Superintendent Registrar and who has attained the age of 18 years supply to him or her on payment of such fee as the Minister may by order prescribe such information as is necessary to enable that person to obtain a certified copy of the record of his or her birth.<sup>70</sup>
- (2) On an application made in such manner as the Minister may by order prescribe by an adopted person under the age of 18 years, a record of whose birth is kept by the Superintendent Registrar and who is intending to be married in Jersey, and on payment of such fee as the Minister may by order prescribe the Superintendent Registrar shall inform the applicant whether or not it appears from information contained in the registers of live births or other records that the applicant and the person whom he or she intends to marry may be within the degrees of relationship prohibited or restricted by Articles 3, 4, and 5 of the Marriage and Civil Status (Jersey) Law 2001.<sup>71</sup>
- (3) Before supplying any information to an applicant under paragraph (1), the Superintendent Registrar shall inform the applicant that counselling services are available to the applicant from the Minister.
- (4) Where an adopted person applies for information under paragraph (1) –
  - (a) it shall be the duty of the Minister to provide counselling services for that person if asked by him or her to do so; and
  - (b) the Superintendent Registrar shall not supply the information unless the adopted person has attended an interview with a counsellor arranged by the Minister.

**31 Legitimation: revocation of adoption orders and cancellations in registers**

- (1) Where any person adopted by his or her father or mother alone has subsequently become a legitimated person on the marriage of his or her father and mother, the Court may, on the application of any of the parties concerned, revoke the relevant adoption order.
- (2) Where an adoption order is revoked under this Article, the Judicial Greffier shall communicate the revocation to the Superintendent Registrar who shall cancel –
  - (a) the entry in the Adopted Children Register relating to the adopted person; and
  - (b) the marking with the word “Adopted” of any entry relating to the adopted person in the Registers of Births,and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this Article, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.
- (3) Where any person legitimated by virtue of Article 2 of the Legitimacy (Jersey) Law 1963<sup>72</sup>, had been adopted by his or her father and mother

before 16th July 1963, the Court may, on the application of any of the parties concerned, revoke the adoption order.<sup>73</sup>

- (4) The revocation of an adoption order under this Article shall not affect the operation of Article 23 in relation to an intestacy which occurred, or a disposition which was made, before the revocation.<sup>74</sup>

### **32 Legitimation: marking of entries on re-registration of births**

Without prejudice to the provisions of Article 31 of this Law, where after an entry in the Registers of Births has been marked with the word “Adopted”, the birth is re-registered under Article 56 or 57 of the Marriage and Civil Status (Jersey) Law 2001<sup>75</sup>, the entry made on the re-registration shall be marked in the like manner.<sup>76</sup>

## **PART 5**

### **SUPERVISION OF CHILDREN AWAITING ADOPTION**

### **33 Meaning of protected child**

- (1) Subject to the following provisions of this Article, where notice of intention to apply for an adoption order in respect of a child is given under Article 15(2), then, while the child has his or her home with the person giving the notice, the child is a protected child for the purposes of Articles 34 to 38.<sup>77</sup>
- (2) A child is not a protected child by reason of any such notice as is mentioned in paragraph (1) while –
- (a) he or she is in the care of any person –
    - (i) in any voluntary home or children’s home,
    - (ii) in any school where he or she is receiving full-time education,
    - (iii) in a hospital; or
  - (b) he or she is –
    - (i) suffering from a mental disorder within the meaning of the Mental Health (Jersey) Law 1969<sup>78</sup>, and
    - (ii) resident in a residential care home; or
  - (c) he or she is liable to be detained or subject to guardianship under the Mental Health (Jersey) Law 1969;<sup>79</sup>
- (3) In sub-paragraph (2) “hospital”, “residential care home”, “school” and “voluntary home” have the same meaning as in the Children (Jersey) Law 2002.<sup>80</sup>
- (4) A protected child ceases to be a protected child –
- (a) on the grant or refusal of the application for an adoption order;

- (b) on the notification to the Minister that the application for an adoption order has been withdrawn;
  - (c) in a case where no application is made for an adoption order, on the expiry of a period of 2 years from the giving of the notice;
  - (d) on the making of a residence order, a care order or a supervision order (other than an interim care order or an interim supervision order) under the Children (Jersey) Law 2002 in respect of the child;
  - (e) on the appointment of a guardian for him or her under that Law;
  - (f) on his or her attaining the age of majority; or
  - (g) on his or her marriage,
- whichever first occurs.<sup>81</sup>

#### **34 Duty to secure well-being of protected children**

It shall be the duty of the Minister to secure that protected children are visited from time to time by officers employed by an administration of the States for which the Minister is assigned responsibility, who shall satisfy themselves as to the well-being of the children and give such advice as to their care and maintenance as may appear to be needed.

#### **35 Power to inspect premises**

Any officer of an administration of the States for which the Minister is assigned responsibility generally or specially authorized in writing in that behalf shall be entitled, subject to the production by the officer if so required of evidence of his or her authority, to enter and inspect any premises in which protected children are to be or are being kept.

#### **36 Notices and information to be given to the Minister**

- (1) Where a person with whom a protected child has his or her home changes his or her permanent address, the person shall, not less than 2 weeks before the change, or, if the change is made in an emergency, not later than one week after the change, give to the Minister notice in writing specifying the new address.<sup>82</sup>
- (2) If a protected child dies, the person with whom the child had his or her home at his or her death shall within 48 hours of the death give to the Minister notice in writing of the death.<sup>83</sup>
- (3) A person with whom a protected child has, or is proposed to have, his or her home shall at the request of the Minister give to the Minister the following particulars, so far as known to the person, that is to say, the name, sex and date and place of birth of the child, and the name and address of every person who is a parent or guardian or acts as a guardian of the child or from whom the child has been or is to be received.<sup>84</sup>

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### **38 Offences in relation to protected children**

- (1) A person shall be guilty of an offence if –
  - (a) being required, under any provision of Article 36, to give any notice or information, the person fails to give the notice within the time specified in that provision or fails to give the information within a reasonable time, or knowingly makes or causes or procures another person to make any false or misleading statement in the notice or information; or
  - (b) the person refuses to allow the visiting of a protected child by a duly authorized officer of an administration of the States for which the Minister is assigned responsibility or the inspection, under the power conferred by Article 35, of any premises.<sup>86</sup>
- (2) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and such fine.<sup>87</sup>

## **PART 6**

### **MISCELLANEOUS**

### **39 Prohibition of certain payments**

- (1) Subject to the provisions of this Article, it shall not be lawful to make or give to any person any payment or reward for or in consideration of –
  - (a) the adoption by that person of an infant;
  - (b) the grant by that person of any consent required in connection with the adoption of an infant;
  - (c) the handing over of an infant by that person with a view to the adoption of the infant; or
  - (d) the making by that person of any arrangements for the adoption of an infant.<sup>88</sup>
- (2) Any person who makes or gives, or agrees or offers to make or give any payment or reward prohibited by this Article, or who receives or agrees to receive or attempts to obtain any such payment or reward, shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and such fine.<sup>89</sup>
- (3) This Article does not apply to any payment made to an administration of the States or a parochial authority by a parent or guardian of an infant or by a person who adopts or proposes to adopt an infant, being a payment in respect of expenses reasonably incurred by the administration of the States or parochial authority in connection with the adoption of the infant,

or to any payment or reward authorized by the Court to which an application for an adoption order in respect of an infant is made.

- (4) This Article does not apply to any allowance paid by the Minister pursuant to Article 9.<sup>90</sup>

### **39A Restriction on bringing infants into Jersey for adoption<sup>91</sup>**

- (1) A person habitually resident in the British Islands who at any time brings into Jersey for the purpose of adoption an infant who is habitually resident outside those Islands shall be guilty of an offence unless such requirements as may be prescribed by Order made by the Minister are satisfied either –
- (a) before that time; or
  - (b) within such period beginning with that time as may be so prescribed.
- (2) Paragraph (1) of this Article does not apply where the infant is brought into Jersey for the purpose of adoption by a parent, guardian or relative.
- (3) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale, or to both.

### **39B Annulment etc. of overseas adoptions<sup>92</sup>**

- (1) The Court may, upon application under this Article, by order annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy.
- (2) The Court may, upon application under this paragraph –
- (a) order that an overseas adoption or a determination shall cease to be valid in Jersey on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorize the adoption or make the determination was not competent to entertain the case;
  - (b) decide the extent, if any, to which a determination has been affected by a subsequent determination.
- (3) Any court in Jersey may, in any proceedings in that court, decide that an overseas adoption or a determination shall, for the purposes of those proceedings, be treated as invalid in Jersey on either of the grounds mentioned in paragraph (2).
- (4) Except as provided by this Article the validity of a Convention adoption, a Convention adoption order or an overseas adoption shall not be impugned in Jersey in proceedings in any court.
- (5) In this Article “determination” means a determination mentioned in Article 39C.



**39C Effect of determination and orders made in other parts of the British Islands and overseas<sup>93</sup>**

- (1) Where –
- (a) an authority of a Convention country having power under the law of that country –
    - (i) to authorize, or review the authorization of, a Convention adoption, or
    - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order; or
  - (b) an authority of any other part of the British Islands or any colony having power under the law of that territory –
    - (i) to authorize, or review the authorization of, a Convention adoption or an adoption effected in that territory, or
    - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order,

makes a determination in the exercise of that power, then, subject to Article 39B and any subsequent determination having effect under this Article, the determination shall have effect in Jersey for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination as the case may be.

**40 Restriction on removal of infants for adoption outside British Islands**

- (1) Except under the authority of an order under Article 41, it shall not be lawful for any person to take or send an infant who is a British subject out of Jersey to any place outside the British Islands with a view to the adoption of the infant (whether in law or in fact) by any person not being a parent or guardian or relative of the infant; and any person who takes or sends an infant out of Jersey to any place in contravention of this paragraph, or makes or takes part in any arrangements placing an infant with any person for that purpose, shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and such fine.<sup>94</sup>
- (2) In any proceedings under this Article, 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 the deponent cannot be found in Jersey, be admissible as evidence of the matters stated therein, 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.

**41 Provisional adoption by persons domiciled outside Jersey**

- (1) If the Court is satisfied, upon an application being made by a person who is not domiciled in Jersey, that the applicant intends to adopt an infant under the law of or within the country in which the applicant is domiciled, and for that purpose desires to remove the infant from Jersey

either immediately or after an interval, the Court may, subject to the provisions of this Article, make an order (in this Article referred to as a “provisional adoption order”) authorizing the applicant to remove the infant for the purpose aforesaid, and giving to the applicant parental responsibility for the infant pending his or her adoption as aforesaid.<sup>95</sup>

- (2) A provisional adoption order may be made in any case where, apart from the domicile of the applicant, an adoption order could be made in respect of the infant under this Law, but shall not be made in any other case.
- (3) Subject to the provisions of this Article, the provisions of this Law, other than this Article and Article 23, shall apply in relation to a provisional adoption order as they apply in relation to an adoption order, and references in those provisions to adoption, to an adoption order, to an application or applicant for such an order and to an adopter or a person adopted or authorized to be adopted under such an order shall be construed accordingly.
- (4) In relation to a provisional adoption order, Article 15(1) and (2) shall have effect as if for the word “3”, where it occurs in those paragraphs, there were substituted the word “6”.
- (5) Any entry in the Registers of Births or the Adopted Children Register which is required to be marked in consequence of the making of a provisional adoption order shall, in lieu of being marked with the word “Adopted” or “Re-adopted” be marked with the words “Provisionally adopted” or “Provisionally re-adopted” as the case may require.

## **42 Orders<sup>96</sup>**

- (1) The Minister may make Orders for any purpose for which Orders may be made under this Law and generally for the purposes of carrying this Law into effect.
- (1A) Orders under this Law may –
  - (a) make different provision for different purposes or areas; and
  - (b) make such incidental, supplementary, consequential or transitional provision as appears to the Minister to be expedient.<sup>97</sup>
- (2) Without prejudice to the generality of paragraph (1), Orders may specify –
  - (a) the procedures to be followed by the panel;
  - (b) the circumstances the panel shall take into account in recommending to the Minister the payment of an allowance; and
  - (c) the procedure for review, variation and termination of allowances.
- (3) The Subordinate Legislation (Jersey) Law 1960<sup>98</sup> shall apply to Orders made under this Law.

## **43 Service of notices, etc.**

Any notice or information required to be given under this Law may be given by post.

**44 Extension of enactments referring to adoption<sup>99</sup>**

- (1) Any provision, however expressed, in any enactment passed before 25th June 1965 under which a person adopted in pursuance of an adoption order is for any purpose treated as the child of the adopter, or any other relationship is deduced by reference to such an order, shall have effect, as respects anything done or any event occurring on or after 25th June 1965, if it extends only to adoptions in pursuance of orders made in Jersey, as extending also to adoptions in pursuance of orders made, whether before or on or after 25th June 1965, in the United Kingdom, the Isle of Man or the Bailiwick of Guernsey, and Article 23(7) shall extend to any such order as is mentioned in this paragraph.
- (2) An order authorizing adoption made outside Jersey on or after 25th June 1965 shall also have the same effect as an adoption order for the purposes of Article 21(2) and Articles 22 and 29, if the order is made in the United Kingdom, the Isle of Man or the Bailiwick of Guernsey.
- (3) Where a person adopted in pursuance of an order made, whether before or on or after 25th June 1965, in the United Kingdom, the Isle of Man or the Bailiwick of Guernsey has subsequently become a legitimated person, and the order is then revoked, the revocation shall not affect the operation of Article 23 as extended by paragraph (1) in relation to an intestacy which occurred, or a disposition which was made, before the revocation.
- (4) Any such provision as is mentioned in paragraph (1) which, by virtue of Article 41(3) applies in relation to orders under that Article shall, as respects anything done on or after 25th June 1965, apply also in relation to similar orders made, whether before or after the commencement of this Law, in the United Kingdom, the Isle of Man or the Bailiwick of Guernsey, and shall be construed accordingly, and any such order made on or after 25th June 1965 shall also have the same effect as an adoption order for the purposes of the provisions mentioned in paragraph (2).

**45 Evidence of adoptions, etc.<sup>100</sup>**

Any document which, under a provision of any enactment of the United Kingdom, the Isle of Man or the Bailiwick of Guernsey corresponding to Article 24(2) is receivable as evidence of any matter in any part of the United Kingdom, the Isle of Man or the Bailiwick of Guernsey, as the case may be, shall be so receivable in Jersey.

**46 Registration of adoptions outside Jersey<sup>101</sup>**

- (1) Where the Superintendent Registrar is notified by the authority maintaining a register of adoptions in the United Kingdom, the Isle of Man or the Bailiwick of Guernsey that an order has been made in that country authorizing the adoption of an infant to whom an entry in the Registers of Births or the Adopted Children Register relates, the Superintendent Registrar shall cause the entry to be marked with the words “Adopted” or “Re-adopted”, as the case may require, followed by the name, in brackets, of the country in which the order was made.

- (2) Where, after an entry has been so marked, the Superintendent Registrar is notified as aforesaid that the order has been quashed, that an appeal against the order has been allowed or that the order has been revoked, the Superintendent Registrar shall cause the marking to be cancelled, and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this paragraph, shall be deemed to be an accurate copy or extract if and only if both the marking and the cancellation are omitted therefrom.
- (3) The preceding provisions of this Article shall apply in relation to orders corresponding to orders under Article 41 as they apply in relation to orders authorizing the adoption of an infant:

Provided that any marking of an entry required by virtue of this paragraph shall consist of the word “Provisionally” followed by the words mentioned in paragraph (1).

- (4) Without prejudice to paragraphs (2) and (3), where, after an entry in the Registers of Births has been marked in accordance with this Article, the birth is re-registered under Article 56 or 57 of the Marriage and Civil Status (Jersey) Law 2001<sup>102</sup>, the entry on the re-registration shall be marked in the like manner.<sup>103</sup>

#### **47 Citation**

This Law may be cited as the Adoption (Jersey) Law 1961.

**SCHEDULE 1**

(Article 25)

**FORM OF ENTRY IN ADOPTED CHILDREN REGISTER**

1	No. of entry	
2	Date and country of birth of child	
3	Name and surname of child	
4	Sex of child	
5	Name and surname, address and occupation of adopter or adopters	
6	Date of adoption order	
7	Date of entry	
8	Signature of Superintendent Registrar	

**SCHEDULE 2**

(Article 11A(2))

**CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION  
IN RESPECT OF INTERCOUNTRY ADOPTION**

The States signatory to the present Convention,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the United Nations Convention on the Rights of the Child, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions –

**CHAPTER I****SCOPE OF THE CONVENTION***Article 1*

The objects of the present Convention are –

- (a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law;
- (b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- (c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

*Article 2*

1. The Convention shall apply where a child habitually resident in one Contracting State ('the State of origin') has been, is being, or is to be moved to another Contracting State ('the receiving State') either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.
2. The Convention covers only adoptions which create a permanent parent-child relationship.

*Article 3*

The Convention ceases to apply if the agreements mentioned in Article 17, subparagraph (c), have not been given before the child attains the age of eighteen years.

## CHAPTER II

## REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

*Article 4*

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin –

- (a) have established that the child is adoptable;
- (b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interest;
- (c) have ensured that –
  - (i) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
  - (ii) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
  - (iii) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
  - (iv) the consent of the mother, where required, has been given only after the birth of the child; and
- (d) have ensured, having regard to the age and degree of maturity of the child, that –
  - (i) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,

- (ii) consideration has been given to the child's wishes and opinions.
- (iii) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
- (iv) such consent has not been induced by payment or compensation of any kind.

*Article 5*

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State –

- (a) have determined that the prospective adoptive parents are eligible and suited to adopt;
- (b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and
- (c) have determined that the child is or will be authorised to enter and reside permanently in that State.

CHAPTER III

CENTRAL AUTHORITIES AND ACCREDITED BODIES

*Article 6*

1. A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.
2. Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

*Article 7*

1. Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.
2. They shall take directly all appropriate measures to –
  - (a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
  - (b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.



*Article 8*

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

*Article 9*

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to –

- (a) collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- (b) facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- (c) promote the development of adoption counselling and post-adoption services in their States;
- (d) provide each other with general evaluation reports about experience with intercountry adoption;
- (e) reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

*Article 10*

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

*Article 11*

An accredited body shall –

- (a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- (b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- (c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

*Article 12*

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities of both States have authorised it to do so.

*Article 13*

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

## CHAPTER IV

## PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

*Article 14*

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

*Article 15*

1. If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.
2. It shall transmit the report to the Central Authority of the State of origin.

*Article 16*

1. If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall –
  - (a) prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
  - (b) give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;
  - (c) ensure that consents have been obtained in accordance with Article 4; and
  - (d) determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.
2. It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

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*Article 17*

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if –

- (a) the Central Authority of that State has ensured that the prospective adoptive parents agree;
- (b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;
- (c) the Central Authorities of both States have agreed that the adoption may proceed; and
- (d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving State.

*Article 18*

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

*Article 19*

- 1. The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.
- 2. The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.
- 3. If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

*Article 20*

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

*Article 21*

- 1. Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular –
  - (a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;

- (b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;
  - (c) as a last resort, to arrange the return of the child, if his or her interests so require.
- 2. Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

#### *Article 22*

- 1. The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.
- 2. Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who –
  - (a) meet the requirements of integrity, professional competence, experience and accountability of that State; and
  - (b) are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.
- 3. A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.
- 4. Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 1.
- 5. Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance with paragraph 1.

### CHAPTER V

#### RECOGNITION AND EFFECTS OF THE ADOPTION

#### *Article 23*

- 1. An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognised by operation of law in the other Contracting States. The

certificate shall specify when and by whom the agreements under Article 17, sub-paragraph c, were given.

2. Each Contracting State shall, at the time of signature, ratification, acceptance, approval or accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

*Article 24*

The recognition of an adoption may be refused in a contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

*Article 25*

Any Contracting State may declare to the depositary of the convention that it will not be bound under this Convention to recognise adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

*Article 26*

1. The recognition of an adoption includes recognition of
  - (a) the legal parent-child relationship between the child and his or her adoptive parents;
  - (b) parental responsibility of the adoptive parents for the child;
  - (c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.
2. In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognised, rights equivalent to those resulting from adoptions having this effect in each such State.
3. The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognises the adoption.

*Article 27*

1. Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognises the adoption under the Convention, be converted into an adoption having such an effect –
  - (a) if the law of the receiving State so permits; and
  - (b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

2. Article 23 applies to the decision converting the adoption.

## CHAPTER VI

### GENERAL PROVISIONS

#### *Article 28*

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

#### *Article 29*

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs a to c, and Article 5, sub-paragraph a, have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

#### *Article 30*

1. The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.
2. They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

#### *Article 31*

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

#### *Article 32*

1. No one shall derive improper financial or other gain from an activity related to an intercountry adoption.
2. Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.
3. The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

*Article 33*

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

*Article 34*

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

*Article 35*

The competent authorities of the contracting States shall act expeditiously in the process of adoption.

*Article 36*

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units –

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;
- (c) any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorised to act in the relevant territorial unit;
- (d) any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant unit.

*Article 37*

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

*Article 38*

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

*Article 39*

1. The convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters

governed by the Convention, unless a contrary declaration is made by the States parties to such instrument.

2. Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

*Article 40*

No reservation to the Convention shall be permitted.

*Article 41*

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

*Article 42*

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.



**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Adoption (Jersey) Law 1961	L.39/1961	1 March 1962 (R&O.4334)
Adoption (Amendment) (Jersey) Law 1963	L.13/1963	24 November 1963
Adoption (Jersey) Law 1965	L.10/1965	25 June 1965
Adoption (No. 2) (Jersey) Law 1966	L.5/1966	25 March 1966
Mental Health (Jersey) Law 1969	L.18/1969	1 January 1972
Nursing and Residential Homes (Jersey) Law 1994	L.12/1994	1 April 1995 (R&O.8811)
Adoption (Amendment No. 3) (Jersey) Law 1995	L.20/1995	1 January 1996 (R&O.8877)
Adoption (Amendment No. 4) (Jersey) Law 1999	L.25/1999	1 September 2001 (R&O.112/2001)
Age of Majority (Jersey) Law 1999	L.26/1999	1 November 1999 (R&O.9455)
Education (Jersey) Law 1999	L.27/1999	1 March 2000 (R&O.9484)
Loi (2000) (Amendement No. 13) sur l'Etat Civil	L.8/2000	31 March 2000
Transfer of Functions (Health and Social Services Committee) (Jersey) Act 1995	R&O.8859	10 October 1995
Marriage and Civil Status (Jersey) Law 2001	L.31/2001	1 May 2002 (R&O.13/2002)
Adoption (Amendment No. 5) (Jersey) Law 2002	L.49/2002	1 August 2005 (R&O.75/2005)
States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005	R&O.45/2005	9 December 2005

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
1	1
1A	2
1B	3
1C	4
1D	5
1E	6
1F	7
1G	8
1H	9
2	10
3	11
4	12

<b>Original</b>	<b>Current</b>
5	13
6	14
7	15
8	16
9	17
10	18
11	19
12	20
13	21
14	22
15	23
16	24
17	25
18	26
18A	27
19	28
20	29
20A	30
21	31
22	32
23	33
24	34
25	35
26	36
27	37
28	38
29	spent, omitted from this revised edition <sup>104</sup>
30	39
31	40
32	41
32A	42
33	43
34	spent, omitted from this revised edition
35	spent, omitted from this revised edition
Art. 1 of L.10/1965	44
Art. 2 of L.10/1965	45
Art. 3 of L.10/1965	46
36	47
First Schedule	Schedule 1
Second Schedule	spent, omitted

Original	Current
	from this revised edition
Third Schedule	Schedule 2

### Table of Endnote References

*The monetary value of levels on the standard scale of fines is set by the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993 chapter 08.360*

- <sup>1</sup> This revised edition incorporates also the Adoption (Jersey) Law 1965 (L.10/1965)
- <sup>2</sup> This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government chapter 12.200
- <sup>3</sup>
- <sup>4</sup> Article 1(1) amended by L.12/1994, L.25/1999, L.26/1999, L.49/2002
- <sup>5</sup> Article 1(2) omitted by L.49/2002
- <sup>6</sup> Article 1(3A) inserted by L.49/2002
- <sup>7</sup> Article 1(3B) inserted by L.49/2002
- <sup>8</sup> Article 1(3C) inserted by L.49/2002
- <sup>9</sup> Article 1(5) amended by L.20/1995
- <sup>10</sup> Article 2 inserted by L.20/1995
- <sup>11</sup> Article 2(1) amended by L.49/2002
- <sup>12</sup> Article 2(4) inserted by L.49/2002
- <sup>13</sup> Article 3 inserted by L.20/1995
- <sup>14</sup> Article 4 inserted by L.20/1995
- <sup>15</sup> Article 5 substituted by L.49/2002
- <sup>16</sup> Article 6 inserted by L.20/1995
- <sup>17</sup> Article 7 inserted by L.25/1999
- <sup>18</sup> Article 8 inserted by L.25/1999
- <sup>19</sup> Article 9 inserted by L.25/1999
- <sup>20</sup> Article 10(1) substituted by L.49/2002
- <sup>21</sup> Article 10(2) substituted by L.49/2002
- <sup>22</sup> Article 10(4) amended by L.49/2002
- <sup>23</sup> Article 10(5) omitted by L.49/2002
- <sup>24</sup> Article 11A inserted by L.49/2002
- <sup>25</sup> Article 11B inserted by L.49/2002
- <sup>26</sup> Article 11C inserted by L.49/2002
- <sup>27</sup> Article 12 substituted by L.20/1995
- <sup>28</sup> Article 12(5) substituted by L.49/2002
- <sup>29</sup> Article 12(7) added by L.49/2002
- <sup>30</sup> Article 12(8) added by L.49/2002
- <sup>31</sup> Article 12A inserted by L.49/2002
- <sup>32</sup> Article 12B inserted by L.49/2002
- <sup>33</sup> Article 13 substituted by L.20/1995
- <sup>34</sup> Article 13(1) substituted by L.49/2002
- <sup>35</sup> Article 13(2) amended by L.49/2002
- <sup>36</sup> Article 13(3) amended by L.49/2002
- <sup>37</sup> Article 13(6) added by L.49/2002
- <sup>38</sup> Article 15 heading amended by L.49/2002
- <sup>39</sup> Article 15(1) substituted by L.49/2002
- <sup>40</sup> Article 15(2) amended by L.49/2002

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- <sup>41</sup> Article 15(3) amended by L.49/2002
- <sup>42</sup> Article 15(4) added by L.49/2002
- <sup>43</sup> Article 16(1) amended by L.49/2002
- <sup>44</sup> Article 17(1) amended by L.49/2002
- <sup>45</sup> Article 17(4) amended by L.49/2002
- <sup>46</sup> chapter 15.440
- <sup>47</sup> Article 18(7) added by L.49/2002
- <sup>48</sup> Article 19 repealed by L.49/2002
- <sup>49</sup> Article 20 heading amended by L.49/2002
- <sup>50</sup> Article 20(1) substituted by L.49/2002
- <sup>51</sup> Article 20(1A) inserted by L.49/2002
- <sup>52</sup> Article 20(1B) inserted by L.49/2002
- <sup>53</sup> Article 20(2) substituted by L.49/2002
- <sup>54</sup> Article 20(5) added by L.49/2002
- <sup>55</sup> Article 20(6) added by L.49/2002
- <sup>56</sup> Article 21(3) added by L.49/2002
- <sup>57</sup> Article 23 substituted by L.13/1963
- <sup>58</sup> Article 23(9) *this paragraph was originally enacted as Article 2 of L.13/1963 and has been reworded accordingly; the date “24th November 1963” was inserted for the commencement date of L.13/1963*
- <sup>59</sup> Article 23(10) added by L.49/2002
- <sup>60</sup> Article 24(1) amended by L.49/2002
- <sup>61</sup> chapter 12.600
- <sup>62</sup> Article 24(3) amended by L.31/2001
- <sup>63</sup> Tome 1946–1948, page 237
- <sup>64</sup> Article 25(7) added by L.49/2002
- <sup>65</sup> Article 26(4) added by L.49/2002
- <sup>66</sup> Article 27 inserted by L.20/1995
- <sup>67</sup> Article 27(4) amended by L.49/2002
- <sup>68</sup> Article 27(6) amended by L.49/2002
- <sup>69</sup> Article 30 inserted by L.20/1995
- <sup>70</sup> Article 30(1) amended by L.49/2002
- <sup>71</sup> Article 30(2) amended by L.31/2001, L.49/2002
- <sup>72</sup> chapter 12.400
- <sup>73</sup> Article 31(3) *paragraph was originally enacted as Article 1(1) of L.5/1966; for “the coming into force of that Law”, the actual date “16th July 1963” was inserted*
- <sup>74</sup> Article 31(4) *paragraph was originally enacted as Article 1(2) of L.5/1966*
- <sup>75</sup> chapter 12.600
- <sup>76</sup> Article 32 amended by L.8/2000, L. 31/2001
- <sup>77</sup> Article 33(1) amended by L.49/2002
- <sup>78</sup> chapter 20.650
- <sup>79</sup> Article 33(2) substituted by L.49/2002
- <sup>80</sup> Article 33(3) substituted by L.49/2002
- <sup>81</sup> Article 33(4) substituted by L.49/2002
- <sup>82</sup> Article 36(1) amended by L.49/2002
- <sup>83</sup> Article 36(2) amended by L.49/2002
- <sup>84</sup> Article 36(3) amended by L.49/2002
- <sup>85</sup> Article 37 repealed by L.49/2002
- <sup>86</sup> Article 38(1) amended by L.49/2002
- <sup>87</sup> Article 38(2) amended by L.20/1995
- <sup>88</sup> Article 39(1) amended by L.49/2002
- <sup>89</sup> Article 39(2) amended by L.20/1995, L.49/2002
- <sup>90</sup> Article 39(4) inserted by L.25/1999
- <sup>91</sup> Article 39A inserted by L.49/2002
- <sup>92</sup> Article 39B inserted by L.49/2002
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- <sup>93</sup> Article 39C inserted by L.49/2002
- <sup>94</sup> Article 40(1) amended by L.20/1995, L.49/2002
- <sup>95</sup> Article 41(1) amended by L.49/2002
- <sup>96</sup> Article 42 inserted by L.25/1999
- <sup>97</sup> Article 42(1A) inserted by L.49/2002
- <sup>98</sup> chapter 15.720
- <sup>99</sup> Article 44 originally enacted as Article 1 of L.10/1965, the Adoption (Jersey) Law 1965. For “the commencement of this Law” the actual date “25th June 1965” has been substituted, and minor consequential changes have been made for this revised edition
- <sup>100</sup> Article 45 originally enacted as Article 2 of L.10/1965, the Adoption (Jersey) Law 1965
- <sup>101</sup> Article 46 originally enacted as Article 3 of L.10/1965, the Adoption (Jersey) Law 1965
- <sup>102</sup> chapter 12.600
- <sup>103</sup> Article 46(4) amended by L.8/2000, L.31/2001
- <sup>104</sup> the original Article 29 has, in this revised edition, been treated as spent. The Article is –

“ARTICLE 29

PROVISIONS AS TO EXISTING DE FACTO ADOPTIONS

*Where, on the first day of January, 1948, any infant was in the custody of, and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any de facto adoption, and had for a period of not less than two years before that date been in such custody, and been so brought up, maintained and educated, the Court may, upon the application of such person or spouses, and notwithstanding that the applicant is a male and the infant a female, make an adoption order authorizing him, her or them to adopt the infant without requiring the consent of any parent or guardian of the infant to be obtained, upon being satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the infant that no such consent should be required and that an adoption order should be made.”.*