



REPUBLIC
OF KENYA

2020



ADOPTION PROCESS

SIMPLIFIED



I. REQUIREMENTS FOR PROSPECTIVE APPLICANTS



- They must be between 25 – 65 years. The Court may under special circumstances allow persons who are above 65 years to adopt.
- They must be at least 21 years older than the child.

Points to note:

- Any child resident in Kenya may be adopted whether the child is a Kenyan citizen or not or whether the child was born in Kenya or not born in Kenya.
- Under the Children’s Act, it is an offence to commence an adoption process before the child has been declared free of adoption by a registered adoption society.

- A child’s relative is eligible to adopt a child in circumstances where biological parents may have passed on. They can also adopt the child with approval of the court even in cases where the parents do not consent if the biological parents abandoned, neglected, persistently failed to maintain and ill-treated the child.
- For single applicants, they can only adopt a child of the same sex unless they are able to convince the court that there are special circumstances that justify the making of an adoption where the child is of the opposite sex.
- Joint applicants are allowed to adopt a child provided they must be spouses married for at least 3 years.
- The Cabinet has issued an indefinite moratorium on adoption since October 2019 until the Ministry of labor and Social Protection formulates a document to regulate adoption of children by foreign nationals in Kenya.
- Under Section 154 of the Children’s Act, all adoption cases are to be filed at the High Court of Kenya.
- Section 154 (2) of the Children’s Act, all adoption applications shall be heard and the determined in chambers and the identity of the child and the applicants shall be kept confidential.

PERSONS NOT QUALIFIED TO ADOPT (as per Section 158 (3) Children's Act):



- Persons charged and convicted by a court of competent jurisdiction of offences against the person and any other offences under the Children's Act;
- In the case of joint applicants, if not married;

II. INITIAL PROCESS

- Prospective applicants visit a duly registered and accredited Adoption Society for introduction and orientation.
- Adoption Agency conducts investigations to ascertain suitability of applicants to adopt the child. They obtain the following documents from the applicants:
 - ♦ Copies of identification documentation of prospective adoptive parents;
 - ♦ Proof of employment (e.g. pay slips, letter of appointment etc)
 - ♦ Financial status (bank statements, copies of Titles etc)
 - ♦ Birth certificates and copies of IDs of any other children the adoptive parent may have, Certificates of good conduct from the Police.
 - ♦ Marriage certificate for couple wishing to adopt;(joint applicants)
- Form of Enquiry on Prospective Adopter(s) _ three forms for male and /or female applicant and other children in the home if any.
 - Accommodation and Condition of Home_ of the Prospective Adopter(s), and
 - Referee information on Prospective Adopters _ Confidential document .
- Agency obtains information regarding the child and which information they use to declare the child free for adoption. Such documents include:
 - Child's birth certificate/ birth notification
 - Police reports (where the child was abandoned)
 - Children officer's letter
 - Court Committal Order
 - Consent from biological parent if the biological parent gives the child up for adoption
 - Child's Admission Form into the Children's home
 - Agency conducts a visit to the applicants' home and interviews the applicants. They use the information to prepare a Social Inquiry Report/ Pre-placement Report on the suitability of the applicants to adopt.

- Agency matches and places a child with the applicants. This process is overseen by a social worker.
- The prospective applicants thereafter execute a Care Agreement between them and the Children’s Home and the child is officially released into their care.
- The fostering period is for a minimum of 3 months before the applicants can start the formal adoption process (court process).
- Points to note: It is important that the prospective adoptive parents ensure that the adoption agency is duly registered and holds a valid license from the National Adoption

Committee under the Ministry of Labor and Social Services. Examples of registered agencies include:

1. Buckner Kenya Adoption Services

2. Change Trust

3. Kenya Children’s Home

4. Child Welfare Society of Kenya

5. Kenyans to Kenyans Peace Initiative (KKPI)

6. Little Angels Network

III. PREPARATION OF ADOPTION APPLICATIONS



4. Pre-placement / Social inquiry report

- Chamber Summons Application seeking orders for the Appointment of a Guardian Ad Litem for the Department of Children Services to investigate the suitability of the applicants to adopt and file a report. This Application is accompanied by:

1. Affidavit of Consent sworn by the proposed Guardian Ad Litem

A Guardian Ad Litem is a person appointed by the Court (under Section 160 of the Children Act) during the court adoption process as a link between the Court and the child. Their main role is to ensure that the child’s interests and well being are safeguarded.

The following are general documents to be prepared and filed:

Originating Summons Application, which seeks for the adoption to be granted/ allowed. This Application is accompanied by:

1. Statement/ Affidavits sworn by the Applicants in support of the application.
2. Supporting documents annexed/ attached in the application giving details of the child and the applicants. I.e. court waiver of consent that is submitted to the Registrar General when submitting an application for registration.
3. Legal Guardians Affidavit of consent and copies of Ids

III. PREPARATION OF ADOPTION APPLICATIONS



2. Affidavit of Fitness sworn by someone vouching for the proposed Guardian Ad Litem's character and suitability to be appointed in that capacity.

POINT TO NOTE:

The supporting documents will vary depending on the kind of adoption. The documents pertaining to the applicants are usually standard as enumerated in part II above.

a. For an adoption where the baby was abandoned, supporting documents may include:

- Initial Police report confirming the incident was reported to the police

b. For an adoption involving a child who was given up for adoption by his/ her biological parent:

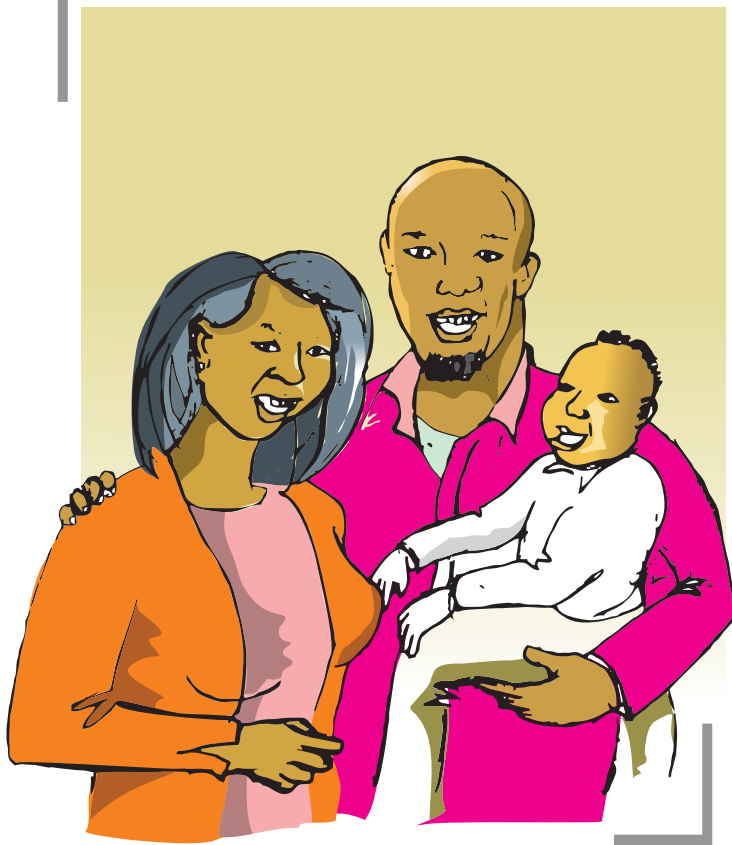
c. For a kinship adoption (kinship adoption is where the child is adopted by his/ her relative(s). Relatives may choose to adopt the child as a result of the death of his parents or in circumstances where the parents are unable to take care of the child's needs):

- Biological parent's copy of ID and Death Certificate (in the case of death)

d. For an international adoption (these are adoptions that involve applicants who are not Kenyan citizens or either of applicant is non citizen):

- Evidence that the foreign Government will recognize the adoption Order and grant citizenship to the child
- A letter of authority and recommendation from a competent government body or court (in the foreign country) to the effect that the Applicants are suitable to obtain a foreign child
- A home study report from a competent government body or court or adoption agency (in the foreign country) recommending the applicants

e. Where adoption is through marriage (Where one



making any interim orders or an adoption order in respect of the child

- d) Intervene on behalf of the child and arrange for the care of the child in the event of the withdrawal of any consent prescribed by the Children Act.
- e) Undertake such duties as the court may from time to time direct or as may be prescribed by law.

- The Director of Children’s Services investigates the applicants, prepares a report and files it in court
- Thereafter the matter proceeds for the 2nd hearing where the adoption application is heard. The court then gives applicants a date for judgment
- After the judgment is delivered, the applicants proceed to extract the Adoption Order from Court.

is adopting the other spouses’ children)

it is advisable that both spouses jointly file for the adoption order. Failure to do so extinguishes the rights of the biological parent and grants sole rights to the adopter.

The following documents should apply;

- Department of Children Services report (Copy)

Points to note: even though the moratorium barred foreign nationals from adopting courts are allowing foreign applicants to adopt provided they are married to Kenyan nationals.

Court Process

After filing the application, the matter is set down for the 1st hearing where the Chamber Summons is heard and the Guardian Ad Litem appointed.

The role of the Guardian ad litem is to: -

- a) Safeguard the interests of the child pending the determination of the adoption proceedings.
- b) Investigate and appraise the court as to the circumstances pertinent to the adoption of the child in the prescribed manner .
- c) Make recommendations as to the propriety of

POINTS TO NOTE:

Court Fees for filing are as follows:

ITEM	FEE
Originating Summons (OS)	1500/-
Prayers for OS	150/- per prayer
Chamber Summons (CS)	250/-
Prayers in the CS	150/- per prayer
Affidavit	75/- per Affidavit
Annextures	10/- per Annexature
Report from Adoption Society	75/-

*The grant of adoption order is subject to the discretion of Court upon the Court being satisfied that all conditions have been met including recommendations for adoption by the Guardian ad litem and Director of Children Services.

IV. POST COURT PROCESS

Acquiring an Adoption Certificate



- After the Court issues an Adoption Order upon delivery of judgment the parties then proceed to apply for an Adoption Certificate. The Application is made to the Registrar General, Sheria House through a letter. The attachments on the Application include:

- The Adoption Order
 - Certificate declaring the child free for adoption
 - Final Police Report (if the child was abandoned)/ Consent of the biological parent (if the child was given up for adoption by the parent)
 - Department of Children Services Report
 - Committal Order
- An adoption order shall be accompanied with a schedule containing the date and country of birth of the child; name and surname of the child; sex of the child; name and address and occupation of the adopter(s); date of adoption order and court which made it.
- Upon receipt of the application for issuance of an adoption certificate, the Registrar General shall process the Certificate within 7 days at a cost of Kshs 100
- After the Adoption Certificate is ready, the Applicants

request, through a letter to the Registrar General, to have the Adoption Certificate verified. The Verification process takes 5 days and is done at no cost.

ACQUIRING A NEW BIRTH CERTIFICATE

- This is the final stage of the process. The applicants write a letter to the Registrar of Births and Deaths applying for the issuance of a new Birth Certificate.

The following documents are attached:

- Adoption Certificate
- Adoptive parents Identity Cards (copies)
- The child's original Birth Certificate (if any)

POINTS TO NOTE ;

- *Guardianship orders are issued by Magistrates courts while Adoption orders are issued by the High Court.*
- *Guardianship orders applications are limited, while adoption orders entail the full transfer of parental rights and responsibilities.*



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