

Application for a Convention adoption order (Form A59)

Notes on completing the form

Important

This form should only be used if you wish to apply for a Convention adoption order.

You need to complete Form A61 (Application for parental responsibility prior to adoption abroad) if you are applying for a Convention adoption order but intend to adopt a child who is habitually resident in the United Kingdom (or who is a Commonwealth citizen) in a place outside of the British Islands (and provided you do not already have an order to remove the child under Adoption (Scotland) Act 1978 or the Adoption (Northern Ireland) Order 1987) even if you will be applying for a Convention adoption order in a place outside the British Islands.

‘Convention adoption order’ means an adoption order which, by virtue of regulations under section 1 of the Adoption (Intercountry Aspects) Act 1999, is made as a Convention adoption order.

‘the Convention’ means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993.

In these notes, any reference to a birth certificate, death certificate, marriage certificate or certificate of civil partnership obtained in England and Wales means a certified copy of the entry in the Register of Live Births, the Register of Deaths, the Register of Marriages or the Register of Civil Partnerships, as appropriate. A photocopy is not acceptable. Where the United Kingdom is the State of origin the birth certificate you send to the court for the child you are applying to adopt must be a certified copy of the full entry in the Register of Live Births.

If you are attaching any order of the High Court or the family court to your application, it must be a sealed copy of the order (that is, a copy that has been stamped with the seal of the court). If you are attaching an order made by a magistrates’ court, it must be a certified copy (a copy certified by the court officer to be a true copy of the original order), or a copy that bears the stamp of the originating court. An order issued by any other authority must be properly authenticated by that authority. If you are in any doubt about what is needed, please contact the court for assistance.

Take or send the completed application form, **and three copies**, to the court, together with the court fee and any documents you are attaching in support of your application.

You should normally make your application to the Designated Family Centre for your area. You can find this, and a full list of courts and what type of work they do online at courtribunalfinder.service.gov.uk

You may need to pay a fee with your application. You should read leaflet EX50 Civil and family court fees to find out what fee, if any, you need to pay. This leaflet is available from your local court or online at hmctsformfinder.justice.gov.uk

You may be exempt from paying all or part of the fee. The combined booklet and application form ‘EX160A Court Fees - Do you have to pay them’ gives more information. This leaflet is available from your local court or online at hmctsformfinder.justice.gov.uk

Notes on the application form

Note 1

Enter the name of the child you are applying to adopt, surname last.

Where the UK is the State of origin you must enter the full first name(s) and the surname of the child exactly as they are shown on the birth certificate (or, if the child has previously been adopted, the certified copy of the entry in the Adopted Children Register) you are sending with your application (see note 10 below).

Where the UK is the receiving State you must enter the full first name(s) and the surname of the child exactly as they are shown on the certified copy of the child's original birth certificate, any abandonment certificate/declaration, or where the child has been adopted, the certified copy of the entry in the register of adoptions as recognised in the State of origin or a certified copy of the adoption certificate (see note 10 below).

Part 1 About you

Note 2

If the name you have entered is different from your name as it is shown on any evidence of marriage or civil partnership you are sending with your application form (for example, because you have changed your name by deed), please attach a continuation sheet explaining the reason for the difference, and a copy of any supporting documents (such as the deed).

Note 3

A Convention adoption order cannot be made unless:

- Where the United Kingdom is the receiving State, you (or in the case of two applicants, both of you) have been habitually resident in a part of the British Islands for a period of not less than one year ending with the date of the application, or
- Where the United Kingdom is the State of origin, you (or in the case of two applicants, both of you) have been habitually resident in a Convention country outside the British Islands on the date of the application.

The United Kingdom means England, Wales, Scotland and Northern Ireland.

'Habitual residence' is normally taken to refer to usual, or customary, residence in a particular place. If you are in any doubt as to whether you meet these conditions, you should seek legal advice.

If the United Kingdom is the receiving State and you are (or in the case a couple, either of you is) not a British citizen, you must obtain confirmation from the Home Office that the child is authorised to enter and reside permanently in the United Kingdom. You should attach the child's passport containing the Home Office authorisation to your application.

Note 4

The occupation you give here will appear on the Convention adoption order and will subsequently be entered in the Adopted Children Register. Please note that failure to give full details may result in a delay in issuing the child's adoption certificate. It is important that you enter the full title of your occupation (or former occupation if you are retired), for example, 'secondary school teacher' or 'ballet teacher', not 'teacher'; 'self-employed carpenter', not 'self-employed'; 'retired police officer', not 'retired'. Abbreviations or general descriptions such as 'self-employed', 'part-time worker', or 'retired', cannot be accepted. Please note also that company names cannot be entered in the Register and it is not sufficient to enter that you are an 'employee' or 'worker' with any particular company, you must give your occupation. If you are unemployed or currently unable to work because of disability, you should give your last occupation. If you are a member of HM Forces, you should give your rank and/or profession.

Note 5

Enter your relationship to the child you are applying to adopt, for example, step-parent, foster parent, grandparent, aunt, uncle, other relative (please specify). If you do not currently have any relationship to the child, other than as prospective adopter, please enter 'none'.

Note 6

If you are applying to adopt alone and you are the partner (including spouse or civil partner) of the child's father or mother, you should complete paragraph (k) and then go straight to Part 2 About the Child. Paragraphs (l) to (p) do not apply to you.

Note 7

If you are applying to adopt alone and you are the partner (but not the spouse or civil partner) of a person who is not the parent of the child you wish to adopt, you should complete paragraph (l). Please give your reasons for applying to adopt alone. If there is not enough room for your reply, you may continue on a separate sheet. You should then go straight to Part 2 About the Child. Paragraphs (m) to (p) do not apply to you.

Note 8

If you are applying to adopt alone and

- you have never been married/ had a civil partner, please complete paragraph (m);
- you are divorced, or your civil partnership has been dissolved, please complete paragraph (n) and attach a copy of the Decree Absolute or the Dissolution Order to your application;
- you are a widow or widower or a surviving civil partner, please complete paragraph (o) and attach the death certificate of your deceased spouse or civil partner to your application.

Note 9

If you are applying to adopt alone and you are married or you have a civil partner, you will need to satisfy the court that:

- your spouse or civil partner cannot be found, or
- you have separated from your spouse or civil partner, you are living apart, and the separation is likely to be permanent, or
- your spouse or civil partner is physically incapable of making an application or lacks capacity (within the meaning of the Mental Capacity Act 2005) to do so.

You must show on the application form which of these three grounds applies in your case by ticking the appropriate box.

You should attach your marriage certificate (or other evidence of marriage) or certificate of civil partnership (or other evidence of civil partnership) to your application, together with any other documentary evidence on which you propose to rely, such as a decree of official separation, or medical evidence of physical incapability or a lack of capacity (within the meaning of the Mental Capacity Act 2005). You should also supply the name and address (if known) of your spouse or civil partner.

Part 2 About the Child

Note 10

Where the UK is the State of origin, if the child has previously been adopted a certified copy of the entry in the Adopted Children Register should be attached and not a certified copy of the full entry in the Register of Live Births.

Where the UK is the receiving State a certified copy of the child's original birth certificate, any abandonment certificate/declaration, or where the child has been adopted, a certified copy of the entry in the register of adoptions as recognised in the State of origin or a certified copy of the adoption certificate, should be attached.

Where you are unable to attach a certificate, enter the place (including the country) of the child's birth, if known.

No application may be made in respect of a person who is aged 18 or more at the time of the application.

Note 11

The court cannot make a Convention adoption order in relation to any person who is or has been married, or any person who is or has been a civil partner.

Note 12

Where the United Kingdom is the receiving state you must give notice of your intention to apply for a Convention adoption order to the local authority where you have your home or last had your home within 14 days beginning with the date on which the child enters the United Kingdom.

Note 13

If some person or body is liable to pay maintenance for the child under a court order, or a maintenance agreement or child support maintenance awarded under the Child Support Act 1991, give the name and address of the person or body liable to pay. In the case of a maintenance order, give the name of the court and the date the order was made; otherwise, give the date of the maintenance agreement or child support maintenance award.

If possible, you should attach a copy of any maintenance order or a copy of the maintenance agreement or maintenance award to your application.

Note 14

If there are earlier, or current, court proceedings relating to the child you are applying to adopt (for example, proceedings for a care order, a child arrangements order or, a parental responsibility order), give the name of the court, the nature of the proceedings and the date and effect of any order made, or the date of the next hearing if proceedings are current. You do not need to repeat the details of any maintenance order or agreement you have already given.

If you were a party to any proceedings that have been completed, you should attach a copy of the final order to your application.

Important: if you have previously applied for an adoption order in respect of the same child and the order was refused, you will need to satisfy the court that there has been a change of circumstances since you last applied, or that there is some other reason why the court should hear your current application. Please set out your reasons for making this application on a separate sheet, explaining why you think the application should be heard. Please put the child's full name, the number of the Part and the paragraph reference at the head of the sheet and attach it to your application form.

Part 3 About the child's parent(s) or guardian

Note 15

If the child has previously been adopted, give the names of his/her adoptive parents, not those of his/her natural parents.

Note 16

Where England and Wales is the State of origin, if the child's parents were not married to each other at the time of his/her birth, the child's father may have parental responsibility

- because he and the child's mother have married since the child was born;
- because he has a parental responsibility agreement with the mother, or has been granted a parental responsibility order, or
- because he registered the child's birth jointly with the child's mother (since 1 December 2003).

Give details of any court order or agreement in respect of parental responsibility in paragraph (l) of Part 2 About the Child.

Note 17

If the child has no guardian, enter 'not applicable'. Otherwise, enter the details of any person appointed to be the child's guardian by deed or will or otherwise in writing in accordance with section 5(5) of the Children Act 1989, or by an order made under section 5(1) or 14A of that Act. Where the United Kingdom is the receiving State please enter the name of any person who is regarded as the child's guardian by the Convention country. If the child has more than one guardian, please give the name and address of any other guardian(s) on a separate sheet, putting the child's full name, the number of the Part and the paragraph reference at the head of the sheet.

Note 18

In the case of an application for a Convention adoption order the consents of the persons, institutions and authorities whose consents are necessary for adoption, must be obtained prior to the child entering the United Kingdom. Confirmation of this should be included in the Article 16 information received from the Central Authority of the child's State of origin.

Part 4 General

Note 19

Please enter the name by which you want the child to be known following the adoption. This is the name that will be entered on the Adopted Children Register. You may wish the child to have a new name following the adoption, but there is no obligation to change the child's name if you do not want to do so.

Note 20

Special assistance or facilities for disability if you attend the court

If you/either of you need special assistance or special facilities for a disability or impairment, please set out your requirements in full. The court staff will need to know, for example, whether you want documents to be supplied in an alternative format, such as Braille or large print. They will also need to know about any specific requirements you may have on the day of the hearing, such as wheelchair access, a hearing loop, or a sign language interpreter.

The court staff will get in touch with you about your requirements. It is important that you make the court aware of all your needs. If you do not, the result may be that the hearing has to be adjourned.

