

Application for an order for parental responsibility prior to adoption abroad (Form A61)

Notes on completing the form

Important

Do not use this form if the child you intend to take abroad for adoption is habitually resident outside the United Kingdom, the Channel Islands or the Isle of Man.

In these notes, any reference to a birth certificate, death certificate, marriage certificate or certificate of civil partnership 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. The birth certificate you send to the court for the child you are intending to take abroad for adoption 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 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

If you are attaching a statement of facts to your application (see note 22 below), please supply **two additional copies of the statement**. If you are attaching health reports (see note 24 below), please supply **two additional copies of the reports**.

Notes on the application form

Note 1

Enter the name of the child you are intending to take abroad for adoption, surname last. 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 11 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

The occupation you give here will appear on the order for parental responsibility prior to adoption abroad. 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 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 4

Enter your relationship to the child you are intending to take abroad for adoption, 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 5

An order for parental responsibility prior to adoption abroad cannot be made if

- you are (in the case of two applicants, at least one of you is) domiciled in the United Kingdom, the Channel Islands or the Isle of Man; or
- you (in the case of two applicants, both of you) have been habitually resident in the United Kingdom, the Channel Islands or the Isle of Man for a period of at least one year, ending with the date of your application.

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

'Domicile' is normally taken to mean the place where you have your permanent home. '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.

Note 6

If you are applying alone for an order for parental responsibility prior to adoption abroad and you are the partner (including spouse or civil partner) of the child's father or mother or other parent, you should complete paragraph (l) and then go straight to Part 2 About the Child. Paragraphs (m) to (r) do not apply to you.

The definitions of 'Other Parent' are;

- A woman who was in a Civil Partnership with the mother at the time of assisted reproduction and who is a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008
- A woman who was not in a Civil Partnership with the mother at the time of assisted reproduction and who is a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008

Note 7

If you are applying for an order for parental responsibility prior to adoption abroad 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 intend to take abroad for adoption, you should complete paragraph (m). Please give your reasons for applying 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 (n) to (r) do not apply to you.

Note 8

If you are applying for an order for parental responsibility prior to adoption abroad alone and

- you have never been married/ had a civil partner, please complete paragraph (n);
- you are divorced, or your civil partnership has been dissolved, please complete paragraph (o) and attach a sealed 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 (p) and attach the death certificate of your deceased spouse or civil partner to your application.

Note 9

If you are applying alone for an order for parental responsibility prior to adoption abroad 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.

Note 10

If you are applying alone for an order for parental responsibility prior to adoption abroad in respect of your own child you will need to satisfy the court that;

- the other natural parent has died, or
- the other natural parent cannot be found, or
- there is no person who is a parent is by virtue of section 28 of the Human Fertilisation and Embryology Act 1990, (disregarding subsections (5A) to (5I) of that section) and sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act) there is no other parent or
- there is some other reason (which you must set out on your application form) justifying the other parent's exclusion from your application.

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

You should attach to your application any documentary evidence on which you propose to rely, such as the death certificate.

Part 2 About the child

Note 11

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 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 12

The court cannot make an order for parental responsibility prior to adoption abroad in relation to any person who is or has been married, or any person who is or has been a civil partner.

Note 13

If the child you intend to take abroad for adoption was not placed with you for adoption by an adoption agency, you must notify in writing the local authority for the area in which you live of your intention to apply for an order for parental responsibility prior to adoption abroad. You must give the local authority notice of your intention not more than two years, and not less than three months, before the date of your application to the court.

Note 14

Give details of the name of the court that made the placement or freeing order, the nature of the order, the case number and the date the order was made.

You should attach a copy of the court order to your application.

Note 15

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 by the Child Support Agency, 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 16

If there are earlier, or current, court proceedings relating to the child you are intending to take abroad for adoption (for example, proceedings for a care order, a parental responsibility order or a child arrangements 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 placement order, freeing order, or 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 17

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

Note 18

If the child's parents were not married to each other or in a civil partnership at the time of his/her birth, the child's father or other parent may have parental responsibility because

- the child's father and the child's mother have married since the child was born;
- the child's other parent and child's mother have entered into a civil partnership since the child was born;
- the child's father or other parent has a parental responsibility agreement with the mother, or has been granted a parental responsibility order, or;
- the child's father or other parent 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 (m) of Part 2 About the Child.

Note 19

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. 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 20

If the child you are intending to adopt abroad is already the subject of a current placement order, the adoption agency has placed the child with you and no parent or guardian opposes the making of the order for parental responsibility prior to adoption abroad, you do not need to ask the court to dispense with the consent of the child's parent(s) or guardian(s) to your application. You do not have to complete paragraph (j), but please ensure that you have entered the details of the placement order in Part 2, About the Child.

If the child you are intending to take abroad for adoption is already the subject of a current freeing order, you do not need to ask the court to dispense with the consent of the child's parent(s) or guardian(s) to your application. You do not have to complete paragraph (j), but please ensure that you have entered the details of the freeing order in Part 2, About the Child.

You do not need to ask the court to dispense with the consent of the child's parent(s) or guardian(s) to your application if:

- the child's parent(s)/guardian(s) has/have consented to the making of an order for parental responsibility prior to adoption abroad, or
- the child was placed with you for adoption by an adoption agency with the consent of each parent/guardian (and the mother's consent was given when the child was at least six weeks old), and no parent/guardian opposes the making of an order for parental responsibility prior to adoption abroad.

Please complete paragraph (j) showing which of these conditions applies in your case.

If the child's father or other parent does not have parental responsibility for the child, you do not need that parent's consent to your application for an order for parental responsibility prior to adoption abroad.

Note 21

If you are asking the court to dispense with the consent of any parent or guardian, the court can only dispense with that person's consent if it is satisfied that:

- he or she cannot be found, or
- he or she lacks capacity (within the meaning of the Mental Capacity Act 2005) to give consent; or
- the welfare of the child requires it.

You must complete paragraph (j) indicating which of these three grounds applies to your request. The court will also require from you a brief statement setting out a summary of the history of the case and any other facts to satisfy the court that the grounds for your request apply. This statement is known as a 'statement of facts'. If a parent cannot be found, your statement of facts should give details of the steps taken to trace him/her. The statement of facts must be signed by your solicitor, or by you (both of you) if you do not have a solicitor.

You should attach your statement of facts, **and two copies of the statement**, to your application form. You should also attach any documents you are submitting in support of your statement.

Important: The court will send a copy of your statement of facts to each parent or guardian of the child. You should make certain that the statement of facts does not include any information that could identify you, where you live, or where the child goes to school or nursery.

Part 4 General

Note 22

Please enter the name by which you want the child to be known following the adoption abroad.

Note 23

You do not need to send a report on your health (or the health of the other applicant, if there is one) or the health of the child with your application if:

- the child was placed with you for adoption by an adoption agency, or
- he/she is your child, or the child of the other applicant, or
- you are applying alone as the partner (including the spouse or civil partner) of the child's mother or father or other parent.

In any other case you must attach separate health reports in respect of each applicant and the child, **and two copies of the reports**. The health reports should cover the matters set out in the Practice Direction 'Reports by a registered medical practitioner ("health reports")', and must have been made no more than three months before the date of your application for an adoption order.

Special assistance or facilities for disability if you attend the court

Note 24

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.