

**PRACTICE DIRECTION 1 OF 2019:
APPLICATION FOR LETTERS OF ADOPTION AND LEGAL GUARDIANSHIP
ORDERS**

This Practice Direction is made following consultation between the Supreme Court and the Attorney General's Office to ensure that applicants for Letters of Adoption and Legal Guardianship Orders are aware of the Court's requirements before making such applications, that the Court is provided with the information that it requires to consider such applications and the efficient determination of such applications by the Court.

All applications filed in the Supreme Court Registry pursuant to section 16 of the *Maintenance of Illegitimate Children Act* and section 6 of the *Guardianship Act* must follow the following procedure:

1. The applicants must submit an application letter addressed to the Registrar of the Supreme Court and a completed Checklist in the form attached or in such other form as the Registrar may require from time to time.
2. The application is to be accompanied by an affidavit of the applicants that must contain the following:
 - 2.1 Name, residential address, age, nationality and occupation of the applicants;
 - 2.2 Name, date of birth and nationality of the child;
 - 2.3 Relationship of the applicants to the natural mother/parents and their nationality;
 - 2.4 Date when the applicants first took the child and period they have cared for the child;
 - 2.5 Religion of the applicants and religion in which the applicants intend to raise the child;
 - 2.6 Place where the applicants intend to raise the child;
 - 2.7 That in respect of the proposed adoption, there has been no payment to the natural mother/parents; and
 - 2.8 Any name change requested in respect of the child.
3. Original birth certificate of the child.
4. Photo ID of the applicants which must be either a valid passport or a national identity card.
5. Original marriage certificate of the applicants (where applicants are a married couple).
6. In respect of an application for Letters of Adoption, there must be filed an affidavit from the natural mother (unless she is unknown, her whereabouts are unknown or she has passed away) consenting to the application and confirming her understanding that the effect of such an order is to permanently deprive her of all parental rights over the subject child.
7. In respect of an application for a Legal Guardianship Order, there must be filed an affidavit from the natural parents (unless their whereabouts are unknown or they have passed away) consenting to the application and confirming their understanding of the effect of a Legal Guardianship Order.

8. For applicants who are ordinarily resident in Tonga and intend to raise the child in Tonga, the application and affidavit must be accompanied by the following:
 - 8.1 Letters from two responsible people in Tonga who have personal knowledge of the applicants and their suitability to raise the child; and
 - 8.2 The applicants' criminal record from the Tonga Police.
9. For applicants who are ordinarily resident overseas or intend to raise the child overseas they must provide the following;
 - 9.1 A social worker's report from their country of residence on their suitability to raise the child including a home report (except in the case of New Zealand applicants – please refer to para 10 below);
 - 9.2 The applicants' criminal record from the Tonga Police (if they are/were Tongan nationals) and from their country of residence; and
 - 9.3 In the case of applications for a Legal Guardianship Order evidence from the relevant authority in their country of residence that the Order will allow the child entry and permanent residence in that country.
10. Where applicants are residing ordinarily in New Zealand or intend to raise the child in New Zealand, the Court will issue a letter requiring a Home Study Report to be prepared by Oranga Tamariki. The letter shall be provided to the Guardian Ad Litem who shall make the request to Oranga Tamariki to prepare the Home Study Report. The Court's file will be closed for administrative purposes and re-opened once the Home Study Report has been filed along with the Guardian Ad Litem report.
11. Applications will **only** be accepted for filing when all the requirements above are provided unless the applicants have been granted a waiver of any of the requirements upon application to the Court.
12. Unless a Judge directs otherwise, a Guardian ad Litem report shall be required for all applications. Special circumstances must exist before a Judge should dispense with the requirement for a Guardian ad Litem report.
13. Except in cases where the Guardian ad Litem is waiting for Oranga Tamariki to provide a Home Study Report, the Guardian ad Litem shall be expected to prepare and file his report within 28 days from the date upon which the Order is made requesting it.
14. The Court shall fix a date for hearing upon receiving the report from the Guardian ad Litem. Applications will be heard on a date that is allocated by the Court. Requests for applications

to be dealt with on an urgent basis will only be considered in exceptional circumstances and should be made by the applicants to the Court and not through the Guardian ad Litem.

15. The Applications will be heard in Chambers and unless excused by the Judge hearing the application the following people are expected to attend:
 - a. Applicants and their lawyer (if any);
 - b. Natural mother/parents;
 - c. Subject child;
 - d. Guardian ad Litem;

16. This Practice Direction takes effect immediately and Practice Directions 1 of 2018 is hereby revoked.



O. G. Paulsen
LORD CHIEF JUSTICE

NUKU'ALOFA: 5 June 2019



IN THE SUPREME COURT OF TONGA
APPLICATION FOR LETTERS OF ADOPTION AND
LEGAL GUARDIANSHIP ORDER CHECKLIST

NOTICE:

This Checklist is to be completed by the Applicants or their lawyer and MUST be filed together with the application for Letters of Adoption or for Legal Guardianship Order.

Tick and fill in where appropriate

Application Letter

Affidavit by the Applicants

Address: _____

Phone Number: _____

Email Address: _____

Affidavit of consent by the Natural Parent/s

Address: _____

Phone Number: _____

Email Address: _____

Original birth certificate/s of the child/ren

Photo ID of the applicants

Marriage certificate of the applicants

Court Order granting a waiver of any of these requirements (*where applicable*)

For applicants who are permanently residing in Tonga and intend to raise the child in Tonga:

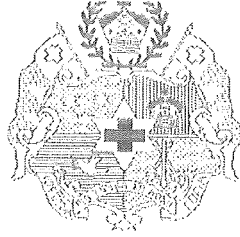
Letters of support from two responsible people who have personal knowledge of the applicant's suitability to raise the child

Both the Applicants criminal record from Tonga Police

For applicants who are ordinarily residing overseas and intend to raise the child/ren overseas:

- Social worker's report from country of residence including a home report (not required for New Zealand applicants)
- Both the Applicant's criminal record from country of residence
- Both the Applicant's criminal record from Tonga Police (if they are/were Tongan nationals)
- Evidence from evidence from the relevant authority in their country of residence that the guardianship order will allow the child entry and permanent residence in that country

<u>OFFICE USE ONLY:</u>	
FA _____/_____	Filed: _____
Checklist Checked: YES NO	
Accepted for filing by: _____	
Receipt Number: _____	Amount Paid: _____
Comments: _____ _____ _____	
Signature: _____	Date: _____



TELEPHONE : (676) 7400830
7400832
FAX : (676) 22 380
OUR REF : FA / 20
DATE :

SUPREME COURT,
P.O. BOX 11,
NUKU'ALOFA,
KINGDOM OF TONGA

(Addressed to Applicant/s and include address in New Zealand)

Dear Sir/Madam,

Re: Application Number: FA
Applicant/s: Full Name, Gender, DOB
Subject child/ren: Full Name, Gender, DOB:

1. I acknowledge receipt of your application for Letters of Adoption/Legal Guardianship Order filed with the Supreme Court on (date of filing).
2. In accordance with the relevant Practice Direction, a Home Study Report will be required from Oranga Tamariki in order for the application to be processed further.
3. A copy of this letter will be provided to the Guardian Ad Litem who will forward the request to Oranga Tamariki to prepare the Home Study Report.
4. Oranga Tamariki will send the report once it is completed to the Attorney General's Office who will file the same to the Supreme Court.
5. In the meantime your application will be closed for administrative purposes and will be re-opened once the report is filed.

Yours faithfully,

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Registrar, Supreme Court