

Adoptions

Applications for adoption orders to be made in Saint Lucia and Licenses to take infants outside of the jurisdiction for the purposes of adoption are governed by the Child (care, Protection and Adoption) Act, Cap. 4.07 (the Act).

The Act, passed in 2018, was intended to change the procedure for adoptions, notably, removing the Attorney General as Tutor Ad Hoc for infants and relegating that responsibility to an Adoption Committee, with powers of placement of children with prospective adoptive parents.

The Adoption Committee not having assumed its role under the Act, the Act was amended to allow the Attorney General to continue to act as Tutor Ad Hoc, following the same rules and procedures established under the now repealed Adoption Act and Adoption of Children High Court Rules.

Requirements for adoption

Ties to Saint Lucia

An applicant for adoption must be:

- A citizen of Saint Lucia; or
- Domiciled in Saint Lucia; or
- Resident in Saint Lucia for at least six consecutive months prior to the date of the application for adoption

Age requirement

An applicant for adoption must be:

- Over 25 years old and at least 21 years older than the infant.
- 21 years old and over **and** is a relative of the infant.
- The infant must be below 18 years of age

These requirements are deemed met where in the case of a joint application, at least one of the applicants meet the age requirements or one of the applicants is the mother or father of the infant.

Requirement as to sex

- An adoption order shall not be made in respect of an infant who is a female 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.
- The Court has deemed as an exceptional measure, a sole male applicant adopting with the consent of his wife, where the applicant lived as a family with his wife.

Relevant consents

Required to be filed are the consents of:

- The natural mother of the infant
- The natural father of the infant
- The tutor of the infant
- The spouse of an applicant (where one spouse applies alone)
- Any person who is liable by virtue of an order or agreement to contribute to the maintenance of the infant

Residency

- An adoption order will only be made where the infant **and** the applicant reside in Saint Lucia
- This requirement is waived where the applicant is the father, mother, or relative of the infant or is a citizen of Saint Lucia.
- Note the definition of relative below:

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

- if an adoption order has been made in respect of the infant or any other person, 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;
- 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 its mother and father;

Care and possession

- The applicant is required to have had continuous care and possession of the infant for at least three consecutive months immediately preceding the date of the adoption order.
- This requirement is waived where the applicant is the father, mother or relative of the infant.

Licences

Where prospective applicants do not meet the requirements to adopt the infant in Saint Lucia, they may consider applying for a licence to take the infant outside of the jurisdiction for adoption. At this time, this route is only available to British subjects.

Applicants are to submit:

- All relevant consents as required for adoptions.
- A home study report from the country where the infant will be adopted and reside

Dispensing with Consent

The Court may dispense with the consent of anyone whose consent is required where:

- In the case of a parent or tutor of the infant, that he or she has abandoned, neglected or persistently ill-treated the infant;
- In the case of a person liable by virtue of an order or agreement to contribute to the maintenance of the infant, that he or she has persistently neglected or refused so to contribute;
- The person whose consent is required cannot be found or is incapable of giving his or her consent or that his or her consent is unreasonably withheld.
- In relation to the spouse of an applicant for an adoption order, the person whose consent is to be dispensed with cannot be found or is incapable of giving the consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

Adoptions where the infant will be taken to live outside of the jurisdiction

Where applicants adopt in Saint Lucia and intend to take the child to live outside of the jurisdiction or where they seek a licence to take the child outside of the jurisdiction for the purposes of adoption, applicants are to ensure that they comply with the adoption/immigration laws of that country.

The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, or Hague Adoption Convention, is an international treaty that provides important safeguards to protect the best interests of children, birth parents, and prospective adoptive parents in intercountry adoptions.

Applicants who are habitually resident in countries who are signatory to that convention must generally follow the Hague process to adopt a child outside of that country.

Adoption process at Chambers

1. The applicant's attorney must serve the adoption application on Chambers.
2. Assigned counsel will then ensure authorization code for E-Litigation Portal is received and all necessary documents have been properly filed, that is: the originating summons, the statement in support of the adoption application, the affidavit verifying the statement in support, the consent of the natural parents (where possible), the undertaking to pay costs and the list of exhibits.

3. Once the application is in order, the assigned counsel will cause an appearance and consent of tutor ad hoc to be prepared and filed. Generally, before the consent is filed, the applicant must pay the **Tutor Ad Hoc fees: (\$1,000.00 per Infant)**. A tutor ad hoc report may not be filed in the absence of the payment.

4. Assigned counsel will then cause a letter to be sent to the applicant's attorney requesting an agreed day and time for the interviewing of all parties involved in the adoption, namely: the applicant, the infant, the natural parents, the references and any other relevant person. The assigned counsel will then conduct the respective interviews, particular attention being paid to the details that the Tutor Ad Hoc Report must capture pursuant to the **Adoption of Children (High Court) Rules Statutory Instruments 17/1954 and 22/1954** and collate the information received.

5. Chambers will also request from the Division of Human Services a Home Study Report (a report into the circumstances of the applicants, the infant and the natural parents). In the case of an International Adoption, a letter to the applicant/s attorney should be prepared to inform that an approved home study report is required from the applicant's country of residence. Upon receipt of the Home Study Report from the overseas agency, said Home Study report will be forwarded to the Division of Human Services for review and approval.

6. The assigned counsel will then prepare and file in the court, a Tutor Ad Hoc Report, wherein all relevant information concerning the application will be contained for the court's consideration.

7. Once the Tutor Ad Hoc's Report is filed, the Court will schedule a date for hearing and counsel will be notified by a Notice of Hearing, which will indicate the date on which the application is heard and likely determined. If granted, the Court will prepare a perfected order which is then emailed to the applicant's attorney for filing.

Note

Applications for a license to take an infant outside of the jurisdiction for the purposes of adoption:

8. Where applicants do not meet one or more of the requirements of **Section 118D (6) of the Child (Care, Protection and Adoption) (Amendment) Act** and is therefore precluded from having an adoption order granted in their favour or in

other relevant circumstances, an application may be made for a licence pursuant to **Section 118R of the Child (Care, Protection and Adoption) (Amendment) Act.**

9. The documents required to be filed are the same as that required when making an application for an adoption order.

Applications where infant is approaching adulthood

10. Where an application is made for the adoption of an infant who is already a teenager, an applicant may want to pay attention to the age of the infant and the date on which the infant turns 18 to ensure that the application for adoption is, where possible, heard prior to that date, failing which, the application may be refused (infant would have attained adulthood).