

# Rule on Adoption

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**Republic of the Philippines**

**Supreme Court**

**Manila**

## **RULE ON ADOPTION**

### **A. DOMESTIC ADOPTION**

SECTION 1. *Applicability of the Rule.* – This Rule covers the domestic adoption of Filipino children.

SEC. 2. *Objectives.* – (a) The best interests of the child shall be the paramount consideration in all matters relating to his care, custody and adoption, in accordance with Philippine laws, the United Nations (UN) Convention on the Rights of the Child, UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally, and the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption.

(b) The State shall provide alternative protection and assistance through foster care or adoption for every child who is a foundling, neglected, orphaned, or abandoned. To this end, the State shall:

(i) ensure that every child remains under the care and custody of his parents and is provided with love, care, understanding and security for the full and harmonious development of his personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available shall adoption by an unrelated person be considered.

(ii) safeguard the biological parents from making hasty decisions in relinquishing their parental authority over their child;

(iii) prevent the child from unnecessary separation from his biological parents;

(iv) conduct public information and educational campaigns to promote a positive environment for adoption;

(v) ensure that government and private sector agencies have the capacity to handle adoption inquiries, process domestic adoption applications and offer adoption-related services including, but not limited to, parent preparation and post-adoption education and counseling;

(vi) encourage domestic adoption so as to preserve the child's identity and culture in his native land, and only when this is not available shall inter-country adoption be considered as a last resort; and

(vii) protect adoptive parents from attempts to disturb their parental authority and custody over their adopted child.

Any voluntary or involuntary termination of parental authority shall be administratively or judicially declared so as to establish the status of the child as "legally available for adoption" and his custody transferred to the Department of

Social Welfare and Development or to any duly licensed and accredited child-placing or child-caring agency, which entity shall be authorized to take steps for the permanent placement of the child.

SEC. 3. *Definition of Terms.* – For purposes of this Rule:

(a) “Child” is a person below eighteen (18) years of age at the time of the filing of the petition for adoption.

(b) “A child legally available for adoption” refers to a child who has been voluntarily or involuntarily committed to the Department or to a duly licensed and accredited child-placing or child-caring agency, freed of the parental authority of his biological parents, or in case of rescission of adoption, his guardian or adopter(s).

(c) “Voluntarily committed child” is one whose parents knowingly and willingly relinquish parental authority over him in favor of the Department.

(d) “Involuntarily committed child” is one whose parents, known or unknown, have been permanently and judicially deprived of parental authority over him due to abandonment; substantial, continuous or repeated neglect and abuse; or incompetence to discharge parental responsibilities.

(e) “Foundling” refers to a deserted or abandoned infant or child whose parents, guardian or relatives are unknown; or a child committed to an orphanage or charitable or similar institution with unknown facts of birth and parentage and registered in the Civil Register as a “foundling.”

(f) “Abandoned child” refers to one who has no proper parental care or guardianship or whose parents have deserted him for a period of at least six (6) continuous months and has been judicially declared as such.

(g) “Dependent child” refers to one who is without a parent, guardian or custodian or one whose parents, guardian or other custodian for good cause desires to be relieved of his care and custody and is dependent upon the public for support.

(h) "Neglected child" is one whose basic needs have been deliberately not attended to or inadequately attended to, physically or emotionally, by his parents or guardian.

(i) "Physical neglect" occurs when the child is malnourished, ill-clad and without proper shelter.

(j) "Emotional neglect" exists when a child is raped, seduced, maltreated, exploited, overworked or made to work under conditions not conducive to good health or made to beg in the streets or public places, or placed in moral danger, or exposed to drugs, alcohol, gambling, prostitution and other vices.

(k) "Child-placement agency" refers to an agency duly licensed and accredited by the Department to provide comprehensive child welfare services including, but not limited to, receiving applications for adoption, evaluating the prospective adoptive parents and preparing the adoption home study report.

(l) "Child-caring agency" refers to an agency duly licensed and accredited by the Department that provides 24-hour residential care services for abandoned, orphaned, neglected or voluntarily committed children.

(m) "Department" refers to the Department of Social Welfare and Development.

(n) "Deed of Voluntary Commitment" refers to the written and notarized instrument relinquishing parental authority and committing the child to the care and custody of the Department executed by the child's biological parents or in their absence, mental incapacity or death, by the child's legal guardian, to be witnessed by an authorized representative of the Department after counseling and other services have been made available to encourage the biological parents to keep the child.

(o) "Child Study Report" refers to a study made by the court social worker of the child's legal status, placement history, psychological, social, spiritual, medical, ethno-cultural background and that of his biological family needed in determining the most appropriate placement for him.

(p) "Home Study Report" refers to a study made by the court social worker of the motivation and capacity of the prospective adoptive parents to provide a home that meets the needs of a child.

(q) "Supervised trial custody" refers to the period of time during which a social worker oversees the adjustment and emotional readiness of both adopters and adoptee in stabilizing their filial relationship.

(r) "Licensed Social Worker" refers to one who possesses a degree in bachelor of science in social work as a minimum educational requirement and who has passed the government licensure examination for social workers as required by Republic Act No. 4373.

(s) "Simulation of birth" is the tampering of the civil registry to make it appear in the birth records that a certain child was born to a person who is not his biological mother, thus causing such child to lose his true identity and status.

(t) "Biological Parents" refer to the child's mother and father by nature.

(u) "Pre-Adoption Services" refer to psycho-social services provided by professionally-trained social workers of the Department, the social services units of local governments, private and government health facilities, Family Courts, licensed and accredited child-caring and child-placement agencies and other individuals or entities involved in adoption as authorized by the Department.

(v) "Residence" means a person's actual stay in the Philippines for three (3) continuous years immediately prior to the filing of a petition for adoption and which is maintained until the adoption decree is entered. Temporary absences for professional, business, health, or emergency reasons not exceeding sixty (60) days in one (1) year does not break the continuity requirement.

(w) "Alien" refers to any person, not a Filipino citizen, who enters and remains in the Philippines and is in possession of a valid passport or travel documents and visa.

SEC. 4. *Who may adopt.* – The following may adopt:

(1) Any Filipino citizen of legal age, in possession of full civil capacity and legal rights, of good moral character, has not been convicted of any crime involving moral turpitude; who is emotionally and psychologically capable of caring for children, at least sixteen (16) years older than the adoptee, and who is in a position to support and care for his children in keeping with the means of the family. The requirement of a 16-year difference between the age of the adopter and adoptee may be waived when the adopter is the biological parent of the adoptee or is the spouse of the adoptee's parent;

(2) Any alien possessing the same qualifications as above-stated for Filipino nationals: *Provided*, That his country has diplomatic relations with the Republic of the Philippines, that he has been living in the Philippines for at least three (3) continuous years prior to the filing of the petition' for adoption and maintains such residence until the adoption decree is entered, that he has been certified by his diplomatic or consular office or any appropriate government agency to have the legal capacity to adopt in his country, and that his government allows the adoptee to enter his country as his adopted child. *Provided, further*, That the requirements on residency and certification of the alien's qualification to adopt in his country may be waived for the following:

(i) a former Filipino citizen who seeks to adopt a relative within the fourth (4) degree of consanguinity or affinity; or

(ii) one who seeks to adopt the legitimate child of his Filipino spouse; or

(iii) one who is married to a Filipino citizen and seeks to adopt jointly with his spouse a relative within the fourth (4<sup>th</sup>) degree of consanguinity or affinity of the Filipino spouse.

(3) The guardian with respect to the ward after the termination of the guardianship and clearance of his financial accountabilities.

Husband and wife shall jointly adopt, except in the following cases:

- (i) if one spouse seeks to adopt the legitimate child of one spouse by the other spouse; or
- (ii) if one spouse seeks to adopt his own illegitimate child: *Provided, however,* That the other spouse has signified his consent thereto; or
- (iii) if the spouses are legally separated from each other.

In case husband and wife jointly adopt or one spouse adopts the illegitimate child of the other, joint parental authority shall be exercised by the spouses.

SEC. 5. *Who may be adopted.* – The following may be adopted:

- (1) Any person below eighteen (18) years of age who has been voluntarily committed to the Department under Articles 154, 155 and 156 of P.D. No. 603 or judicially declared available for adoption;
- (2) The legitimate child of one spouse, by the other spouse;
- (3) An illegitimate child, by a qualified adopter to raise the status of the former to that of legitimacy;
- (4) A person of legal age regardless of civil status, if, prior to the adoption, said person has been consistently considered and treated by the adopters as their own child since minority;
- (5) A child whose adoption has been previously rescinded; or
- (6) A child whose biological or adoptive parents have died: *Provided,* That no proceedings shall be initiated within six (6) months from the time of death of said parents.
- (7) A child not otherwise disqualified by law or these rules.

SEC. 6. *Venue.* – The petition for adoption shall be filed with the Family Court of the province or city where the prospective adoptive parents reside.

SEC. 7. *Contents of the Petition.* – The petition shall be verified and specifically state at the heading of the initiatory pleading whether the petition contains an application for change of name, rectification of simulated birth, voluntary or involuntary commitment of children, or declaration of child as abandoned, dependent or neglected.

1) If the adopter is a Filipino citizen, the petition shall allege the following:

(a) The jurisdictional facts;

(b) That the petitioner is of legal age, in possession of full civil capacity and legal rights; is of good moral character; has not been convicted of any crime involving moral turpitude; is emotionally and psychologically capable of caring for children; is at least sixteen (16) years older than the adoptee, unless the adopter is the biological parent of the adoptee or is the spouse of the adoptee's parent; and is in a position to support and care for his children in keeping with the means of the family and has undergone pre-adoption services as required by Section 4 of Republic Act No. 8552 (<http://www.officialgazette.gov.ph/1998/02/25/republic-act-no-8552/>).

2) If the adopter is an alien, the petition shall allege the following:

(a) The jurisdictional facts;

(b) Sub-paragraph 1(b) above;

(c) That his country has diplomatic relations with the Republic of the Philippines;

(d) That he has been certified by his diplomatic or consular office or any appropriate government agency to have the legal capacity to adopt in his country and his government allows the adoptee to enter his country as his adopted child and reside there permanently as an adopted child; and



(e) That he has been living in the Philippines for at least three (3) continuous years prior to the filing of the petition and he maintains such residence until the adoption decree is entered.

The requirements of certification of the alien's qualification to adopt in his country and of residency may be waived if the alien:

(i) is a former Filipino citizen who seeks to adopt a relative within the fourth degree of consanguinity or affinity; or

(ii) seeks to adopt the legitimate child of his Filipino spouse;

or

(iii) is married to a Filipino citizen and seeks to adopt jointly with his spouse a relative within the fourth degree of consanguinity or affinity of the Filipino spouse.

3) If the adopter is the legal guardian of the adoptee, the petition shall allege that guardianship had been terminated and the guardian had cleared his financial accountabilities.

4) If the adopter is married, the spouse shall be a co-petitioner for joint adoption except if:

(a) one spouse seeks to adopt the legitimate child of the other, or

(b) if one spouse seeks to adopt his own illegitimate child and the other spouse signified written consent thereto, or

(c) if the spouses are legally separated from each other.

5) If the adoptee is a foundling, the petition shall allege the entries which should appear in his birth certificate, such as name of child, date of birth, place of birth, if known; sex, name and citizenship of adoptive mother and father, and the date and place of their marriage.

6) If the petition prays for a change of name, it shall also state the cause or reason for the change of name.

In all petitions, it shall be alleged:

(a) The first name, surname or names, age and residence of the adoptee as shown by his record of birth, baptismal or foundling certificate and school records.

(b) That the adoptee is not disqualified by law to be adopted.

(c) The probable value and character of the estate of the adoptee.

(d) The first name, surname or names by which the adoptee is to be known and registered in the Civil Registry.

A certification of non-forum shopping shall be included pursuant to Section 5, Rule 7 of the 1997 Rules of Civil Procedure.

*Sec. 8. Rectification of Simulated Birth.* – In case the petition also seeks rectification of a simulated of birth, it shall allege that:

(a) Petitioner is applying for rectification of a simulated birth;

(b) The simulation of birth was made prior to the date of effectivity of Republic Act No. 8552 and the application for rectification of the birth registration and the petition for adoption were filed within five years from said date;

(c) The petitioner made the simulation of birth for the best interests of the adoptee; and

(d) The adoptee has been consistently considered and treated by petitioner as his own child.

SEC. 9. *Adoption of a foundling, an abandoned, dependent or neglected child.* – In case the adoptee is a foundling, an abandoned, dependent or neglected child, the petition shall allege:

- (a) The facts showing that the child is a foundling, abandoned, dependent or neglected;
- (b) The names of the parents, if known, and their residence. If the child has no known or living parents, then the name and residence of the guardian, if any;
- (c) The name of the duly licensed child-placement agency or individual under whose care the child is in custody; and
- (d) That the Department, child-placement or child-caring agency is authorized to give its consent.

SEC. 10. *Change of name.* – In case the petition also prays for change of name, the title or caption must contain:

- (a) The registered name of the child;
- (b) Aliases or other names by which the child has been known; and
- (c) The full name by which the child is to be known.

SEC. 11. *Annexes to the Petition.* – The following documents shall be attached to the petition:

A. Birth, baptismal or foundling certificate, as the case may be, and school records showing the name, age and residence of the adoptee;

B. Affidavit of consent of the following:

1. The adoptee, if ten (10) years of age or over;
2. The biological parents of the child, if known, or the legal guardian, or the child-placement agency, child-caring agency, or the proper government instrumentality

which has legal custody of the child;

3. The legitimate and adopted children of the adopter and of the adoptee, if any, who are ten (10) years of age or over;
4. The illegitimate children of the adopter living with him who are ten (10) years of age or over; and
5. The spouse, if any, of the adopter or adoptee.

C. Child study report on the adoptee and his biological parents;

D. If the petitioner is an alien, certification by his diplomatic or consular office or any appropriate government agency that he has the legal capacity to adopt in his country and that his government allows the adoptee to enter his country as his own adopted child unless exempted under Section 4(2);

E. Home study report on the adopters. If the adopter is an alien or residing abroad but qualified to adopt, the home study report by a foreign adoption agency duly accredited by the Inter-Country Adoption Board; and

F. Decree of annulment, nullity or legal separation of the adopter as well as that of the biological parents of the adoptee, if any.

SEC. 12. *Order of Hearing.* – If the petition and attachments are sufficient in form and substance, the court shall issue an order which shall contain the following:

(1) the registered name of the adoptee in the birth certificate and the names by which the adoptee has been known which shall be stated in the caption;

(2) the purpose of the petition;

(3) the complete name which the adoptee will use if the petition is granted;

(4) the date and place of hearing which shall be set within six (6) months from the date of the issuance of the order and shall direct that a copy thereof be published before the date of hearing at least once a week for three successive weeks in a

newspaper of general circulation in the province or city where the court is situated; *Provided*, that in case of application for change of name, the date set for hearing shall not be within four (4) months after the last publication of the notice nor within thirty (30) days prior to an election.

The newspaper shall be selected by raffle under the supervision of the Executive Judge.

(5) a directive to the social worker of the court, the social service office of the local government unit or any child-placing or child-caring agency, or the Department to prepare and submit child and home study reports before the hearing if such reports had not been attached to the petition due to unavailability at the time of the filing of the latter; and

(6) a directive to the social worker of the court to conduct counseling sessions with the biological parents on the matter of adoption of the adoptee and submit her report before the date of hearing.

At the discretion of the court, copies of the order of hearing shall also be furnished the Office of the Solicitor General through the provincial or city prosecutor, the Department and the biological parents of the adoptee, if known.

If a change in the name of the adoptee is prayed for in the petition, notice to the Solicitor General shall be mandatory.

**SEC. 13. *Child and Home Study Reports.*** – In preparing the child study report on the adoptee, the concerned social worker shall verify with the Civil Registry the real identity and registered name of the adoptee. If the birth of the adoptee was not registered with the Civil Registry, it shall be the responsibility of the social worker to register the adoptee and secure a certificate of foundling or late registration, as the case may be.

The social worker shall establish that the child is legally available for adoption and the documents in support thereof are valid and authentic, that the adopter has sincere intentions and that the adoption shall inure to the best interests of the child.

In case the adopter is an alien, the home study report must show the legal capacity to adopt and that his government allows the adoptee to enter his country as his adopted child in the absence of the certification required under Section 7(b) of Republic Act No. 8552.

If after the conduct of the case studies, the social worker finds that there are grounds to deny the petition, he shall make the proper recommendation to the court, furnishing a copy thereof to the petitioner.

SEC. 14. *Hearing.* – Upon satisfactory proof that the order of hearing has been published and jurisdictional requirements have been complied with, the court shall proceed to hear the petition. The petitioner and the adoptee must personally appear and the former must testify before the presiding judge of the court on the date set for hearing.

The court shall verify from the social worker and determine whether the biological parent has been properly counseled against making hasty decisions caused by strain or anxiety to give up the child; ensure that all measures to strengthen the family have been exhausted; and ascertain if any prolonged stay of the child in his own home will be inimical to his welfare and interest.

SEC. 15. *Supervised Trial Custody.* – Before issuance of the decree of adoption, the court shall give the adopter trial custody of the adoptee for a period of at least six (6) months within which the parties are expected to adjust psychologically and emotionally to each other and establish a bonding relationship. The trial custody shall be monitored by the social worker of the court, the Department, or the social service of the local government unit, or the child-placement or child-caring agency which submitted and prepared the case studies. During said period, temporary parental authority shall be vested in the adopter.

The court may, *motu propria* or upon motion of any party, reduce the period or exempt the parties if it finds that the same shall be for the best interests of the adoptee, stating the reasons therefor.

An alien adopter however must complete the 6-month trial custody except the following:

a) a former Filipino citizen who seeks to adopt a relative within the fourth (4th) degree of consanguinity or affinity; or

b) one who seeks to adopt the legitimate child of his Filipino spouse; or

c) one who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse the latter's relative within the fourth (4th) degree of consanguinity or affinity.

If the child is below seven (7) years of age and is placed with the prospective adopter through a pre-adoption placement authority issued by the Department, the court shall order that the prospective adopter shall enjoy all the benefits to which the biological parent is entitled from the date the adoptee is placed with him.

The social worker shall submit to the court a report on the result of the trial custody within two weeks after its termination.

SEC. 16. *Decree of Adoption.* – If the supervised trial custody is satisfactory to the parties and the court is convinced from the trial custody report and the evidence adduced that the adoption shall redound to the best interests of the adoptee, a decree of adoption shall be issued which shall take effect as of the date the original petition was filed even if the petitioners die before its issuance.

The decree shall:

A. State the name by which the child is to be known and registered;

B. Order:

- 1) the Clerk of Court to issue to the adopter a certificate of finality upon expiration of the 15-day reglementary period within which to appeal;
- 2) the adopter to submit a certified true copy of the decree of adoption and the certificate of finality to the Civil Registrar where the child was originally registered within thirty (30) days from receipt of the certificate of finality. In case of change of name, the decree shall be submitted to the Civil Registrar where the court issuing the same is situated.
- 3) the Civil Registrar of the place where the adoptee was registered:
  - a. to annotate on the adoptee's original certificate of birth the decree of adoption within thirty (30) days from receipt of, the certificate of finality;
  - b. to issue a certificate of birth which shall not bear any notation that it is a new or amended certificate and which shall show, among others, the following: registry number, date of registration, name of child, sex, date of birth, place of birth, name and citizenship of adoptive mother and father, and the date and place of their marriage, when applicable;
  - c. to seal the original certificate of birth in the civil registry records which can be opened only upon order of the court which issued the decree of adoption; and
  - d. to submit to the court issuing the decree of adoption proof of compliance with all the foregoing within thirty days from receipt of the decree. If the adoptee is a foundling, the court shall order the Civil Registrar where the foundling was registered, to annotate the decree of adoption on the foundling certificate and a new birth certificate shall be ordered prepared by the Civil Registrar in accordance with the decree.

SEC. 17. *Book of Adoptions.* – The Clerk of Court shall keep a book of adoptions showing the date of issuance of the decree in each case, compliance by the Civil Registrar with Section 16(B)(3) and all incidents arising after the issuance of the decree.



SEC. 18. *Confidential Nature of Proceedings and Records.* – All hearings in adoption cases, after compliance with the jurisdictional requirements shall be confidential and shall not be open to the public. All records, books and papers relating to the adoption cases in the files of the court, the Department, or any other agency or institution participating in the adoption proceedings shall be kept strictly confidential.

If the court finds that the disclosure of the information to a third person is necessary for security reasons or for purposes connected with or arising out of the adoption and will be for the best interests of the adoptee, the court may, upon proper motion, order the necessary information to be released, restricting the purposes for which it may be used.

SEC. 19. *Rescission of Adoption of the Adoptee.* – The petition shall be verified and filed by the adoptee who is over eighteen (18) years of age, or with the assistance of the Department, if he is a minor, or if he is over eighteen (18) years of age but is incapacitated, by his guardian or counsel.

The adoption may be rescinded based on any of the following grounds committed by the adopter:

- 1) repeated physical and verbal maltreatment by the adopter despite having undergone counseling;
- 2) attempt on the life of the adoptee;
- 3) sexual assault or violence; or
- 4) abandonment or failure to comply with parental obligations. Adoption, being in the best interests of the child, shall not be subject to

rescission by the adopter. However, the adopter may disinherit the adoptee for causes provided in Article 919 of the Civil Code (<http://www.officialgazette.gov.ph/1949/06/18/republic-act-no-386/>).

SEC. 20. *Venue.* – The petition shall be filed with the Family Court of the city or province where the adoptee resides.

SEC. 21. *Time within which to file petition.* – The adoptee, if incapacitated, must file the petition for rescission or revocation of adoption within five (5) years after he reaches the age of majority, or if he was incompetent at the time of the adoption, within five (5) years after recovery from such incompetency.

SEC. 22. *Order to Answer.* – The court shall issue an order requiring the adverse party to answer the petition within fifteen (15) days from receipt of a copy thereof. The order and copy of the petition shall be served on the adverse party in such manner as the court may direct.

SEC. 23. *Judgment.* ~ If the court finds that the allegations of the petition are true, it shall render judgment ordering the rescission of adoption, with or without costs, as justice requires.

The court shall order that the parental authority of the biological parent of the adoptee, if known, or the legal custody of the Department shall be restored if the adoptee is still a minor or incapacitated and declare that the reciprocal rights and obligations of the adopter and the adoptee to each other shall be extinguished.

The court shall further declare that successional rights shall revert to its status prior to adoption, as of the date of judgment of judicial rescission. Vested rights acquired prior to judicial rescission shall be respected.

It shall also order the adoptee to use the name stated in his original birth or foundling certificate.

The court shall further order the Civil Registrar where the adoption decree was registered to cancel the new birth certificate of the adoptee and reinstate his original birth or foundling certificate.

SEC. 24. *Service of Judgment.* – A certified true copy of the judgment together with a certificate of finality issued by the Branch Clerk of the Court which rendered the decision in accordance with the preceding Section shall be served by the petitioner upon the Civil Registrar concerned within thirty (30) days from receipt of the certificate of finality. The Civil Registrar shall forthwith enter the rescission decree in the register and submit proof of compliance to the court issuing the decree and the Clerk of Court within thirty (30) days from receipt of the decree.

The Clerk of Court shall enter the compliance in accordance with Section 17 hereof.

SEC. 25. *Repeal.* – This supersedes Rule 99 on Adoption and Rule 100 of the Rules of Court.

## **B. INTER-COUNTRY ADOPTION**

SEC. 26. *Applicability.* – The following sections apply to i adoption of Filipino children by foreign nationals and Filipino citizens permanently residing abroad.

SEC. 27. *Objectives.* – The State shall:

- a) consider inter-country adoption as an alternative means of child care, if the child cannot be placed in a foster or an adoptive family or cannot, in any suitable manner, be cared for in the Philippines;
- b) ensure that the child subject of inter-country adoption enjoys the same protection accorded to children in domestic adoption; and
- c) take all measures to ensure that the placement arising therefrom does not result in improper financial gain for those involved.

SEC. 28. *Where to File Petition.* – A verified petition to adopt a Filipino child may be filed by a foreign national or Filipino citizen permanently residing abroad with the Family Court having jurisdiction over the place where the child resides or may be found.

It may be filed directly with the Inter-Country Adoption Board

SEC. 29. *Who may be adopted.* – Only a child legally available for domestic adoption may be the subject of inter-country adoption.

SEC. 30. *Contents of Petition.* – The petitioner must allege:

a) his age and the age of the child to be adopted, showing that he is at least twenty-seven (27) years of age and at least sixteen (16) years older than the child to be adopted at the time of application, unless the petitioner is the parent by nature of the child to be adopted or the spouse of such parent, in which case the age difference does not apply;

b) if married, the name of the spouse who must be joined as co-petitioner except when the adoptee is a legitimate child of his spouse;

c) that he has the capacity to act and assume all rights and responsibilities of parental authority under his national laws, and has undergone the appropriate counseling from an accredited counselor in his country;

d) that he has not been convicted of a crime involving moral turpitude;

e) that he is eligible to adopt under his national law;

f) that he can provide the proper care and support and instill the necessary moral values and example to all his children, including the child to be adopted;

g) that he agrees to uphold the basic rights of the child, as embodied under Philippine laws and the U. N. Convention on the Rights of the Child, and to abide by the rules and regulations issued to implement the provisions of Republic Act No. 8043;

h) that he comes from a country with which the Philippines has diplomatic relations and whose government maintains a similarly authorized and accredited agency and that adoption of a Filipino child is allowed under his national laws; and

i) that he possesses all the qualifications and none of the disqualifications provided in this Rule, in Republic Act No. 8043 and in all other applicable Philippine laws.

SEC. 31. *Annexes.* – The petition for adoption shall contain the following annexes written and officially translated in English:

a) Birth certificate of petitioner;

b) Marriage contract, if married, and, if applicable, the divorce decree, or judgment dissolving the marriage;

c) Sworn statement of consent of petitioner's biological or adopted children above ten (10) years of age;

d) Physical, medical and psychological evaluation of the petitioner certified by a duly licensed physician and psychologist;

e) Income tax returns or any authentic document showing the current financial capability of the petitioner;

f) Police clearance of petitioner issued within six (6) months before the filing of the petition;

g) Character reference from the local church/minister, the petitioner's employer and a member of the immediate community who have known the petitioner for at least five (5) years;

h) Full body postcard-size pictures of the petitioner and his immediate family taken at least six (6) months before the filing of the petition.

SEC. 32. *Duty of Court.* – The court, after finding that the petition is sufficient in form and substance and a proper case for inter-country adoption, shall immediately transmit the petition to the Inter-Country Adoption Board for appropriate action.

SEC. 33. *Effectivity.* – This Rule shall take effect on August 22, 2002 following its publication in a newspaper of general circulation.

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