

स्पष्टीकरक ज्ञापन

यह ऐसे मामलों में अंतर देशीय दत्तक-ग्रहण की सुविधा उपलब्ध कराने का प्रस्ताव है, जहाँ दत्तक विलेख को इन संशोधित विनियमों के प्रारंभ के पहले, हिन्दू दत्तक ग्रहण और भरण-पोषण अधिनियम, 1956 (1956 का 78) के अधीन दत्तक ग्रहण के अनुसरण पहले ही निष्पादित किया गया है। यह प्रमाणित किया जाता है कि ऐसे भूतलक्षी दिये जाने से किसी व्यक्ति पर प्रतिकूल प्रभाव नहीं पड़ेगा।

MINISTRY OF WOMEN AND CHILD DEVELOPMENT**NOTIFICATION**

New Delhi, the 17th September, 2021

G.S.R. 641(E).—In exercise of the powers conferred by clause (b) and (c) of section 68 read with clause (3) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the Central Government hereby notifies the following regulations to amend the Adoption Regulations, 2017, namely:-

1. Short title and commencement. - (1) These regulations may be called the Adoption (Amendment) Regulations, 2021.

(2) Save as otherwise provided, these regulations shall come into force on the date of their publication in the Official Gazette.

2. In the Adoption Regulations, 2017 (hereinafter referred to as the principal regulations), after Chapter IV, the following Chapter shall be inserted, namely:-

“CHAPTER IV-A**PROCEDURE FOR CHILDREN ADOPTED UNDER THE HINDU ADOPTION AND MAINTENANCE ACT, 1956, BY PARENTS WHO DESIRE TO RELOCATE CHILD ABROAD**

22A. Application of Chapter.—(1) This Chapter shall apply to—

(a) all adoption cases under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956) by prospective adoptive parents or adoptive parents residing outside the country.

(b) all adoption cases pertaining to countries outside the Hague Adoption Convention.

(2) The Central Adoption Resource Authority shall register applications for inter-country adoptions concluded under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956).

22B. Procedure in the case of registered adoption deed.- (1) In the cases where the adoption deed has already been executed in pursuance of adoption under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), before the commencement of the Adoption (Amendment) Regulations, 2021, the requisite documents supporting the facts of the adoption deed shall be duly verified and recommended by the District Magistrate in the format as provided in Schedule XXXIII.

(2) On receipt of the verification of documents as per Schedule XXXIII, the Central Adoption Resource Authority shall comply with the provisions of Articles 5 or 17 from the receiving country as provided in the Hague Adoption Convention.

(3) Upon receiving such certificate, the Central Adoption Resource Authority shall issue no objection certificate for Hague ratified countries and in cases of countries outside the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption, a letter accepting the said adoption from the Government department concerned of the receiving country shall be sought by the Central Adoption Resource Authority in order to issue the final support letter from the Central Adoption Resource Authority.

22C. Procedure for prospective inter-country Adoption.- (1) In the cases initiated after the coming into force of the Adoption (Amendment) Regulations, 2021, the following standard common procedure shall be applicable for all inter-country adoptions concluded under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), by eligible non-resident Indians or Overseas Citizens of India cardholders, who are to take a child in adoption from India.

(2) Any Hindu prospective adoptive parent habitually residing abroad and willing to adopt an Indian Hindu child born to Indian Hindu Parents, residing in India, may approach an Authorised Foreign Adoption Agency or the Central Authority or concerned Government department (in case of countries outside the Hague Adoption Convention) in their country of habitual residence, as the case may be.

(3) The Authorised Foreign Adoption Agency, or Central Authority or concerned Government department (in case of countries outside the Hague Convention) in their country of habitual residence shall sponsor the application of eligible and suitable prospective adoptive parents to the Central Adoption Resource Authority.

(4) The Central Adoption Resource Authority shall share the sponsoring letter received from the Authorised Foreign Adoption Agency with District Magistrate of the district of residence of the child.

(5) The District Magistrate shall get a family background report prepared which shall include all required documents related to the biological parents and the child proposed to be adopted and the report shall be conducted through the District Child Protection Officer or the District Child Protection Unit in the Schedule XXXIV.

(6) On receiving the family background report, the Central Adoption Resource Authority shall forward it to the concerned Authorised Foreign Adoption Agency, or Central Authority, or concerned Government department (in case of countries outside the Hague Adoption Convention) in their country of habitual residence for issuing necessary permission under Articles 5 or 17 (Hague ratified countries) or letter supporting adoption (in case of countries outside the Hague Adoption Convention), as the case may be.

22D. Adoption process.- (1) The parties to an adoption concluded under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956) shall jointly present the deed of adoption to the District Registrar with copy to District Magistrate.

(2) Based on such copy of the deed, the District Magistrate shall conduct such inquiry, as he may deem fit, to satisfy himself that all the provisions of Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), and the stipulations under the regulations have been followed and such inquiry shall be completed within a period of thirty days.

(3) In case the District Magistrate fails to complete the inquiry within thirty days, he shall be bound to give reasons alongwith verification certificate for failing to provide the inquiry report within thirty days, the parties may register the adoption deed with the Sub-Registrar concerned under the Registration Act, 1908 (16 of 1908), indicating the details of application made and that inquiry from District Magistrate has not been received within the stipulated time referred to in sub-regulation (2).

(4) The District Magistrate shall thereafter forward the verification certificate to the Central Adoption Resource Authority certifying the following that-

(a) the adoption recorded in the deed of adoption has been made in accordance with the provisions of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), including the sourcing of the child, the eligibility and suitability of the adoptive parents in Schedule XXXIII.

(b) the adopted child or the biological parents are not under any duress while giving the child in adoption;

(c) the adoption had been concluded with mutual consent of all parties concerned;

(d) there has been no monetary consideration involved in the adoption process and the adoption is in the best interest of the child.

22E. Issue of no objection certificate and Conformity Certificate.- (1) On receipt of verification certificate from the District Magistrate, on the registered adoption deed and necessary permission under Articles 5 or 17 from the receiving country as provided in the Hague Adoption Convention on Protection of Children and Co-operation in respect of inter-country Adoption, the Central Adoption Resource Authority shall issue no objection certificate for Hague ratified countries and Conformity Certificate under Article 23 shall be issued by the Central Adoption Resource Authority subsequently.

(2) In the case of countries outside the Hague Adoption Convention, a support letter shall be issued by the Central Adoption Resource Authority subsequently.

(3) Post-adoption follow-up reports on a half-yearly basis shall be obtained from the concerned Authorised Foreign Adoption Agency, or Central Authority, or the Government department concerned as the case may be.”.

3. In the principal regulations, after Schedule XXXII, the following Schedules shall be inserted, namely:-

“SCHEDULE XXXIII

[Refer regulations 22B and 22D]

**VERIFICATION CERTIFICATE IN CASE OF ADOPTION CONCLUDED UNDER THE
HINDU ADOPTIONS AND MAINTENANCE ACT, 1956 (78 OF 1956)**

Office of the District Magistrate

District:

State:

Subject : Verification Certificate as required under the Regulations for inter-country adoptions under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956) in respect of child-----.

This is to certify that as per the adoption deed registered under the Registration Act, 1908 (16 of 1908), the child ----- by name has been adopted by-----, who are habitually residing in -----
-----from the biological parent(s)/guardian -----resident of -----

2. That after examining the parties and the witnesses, I conclude the following:

(a) The adoption recorded in the deed of adoption has been made in accordance with the provisions of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956) including the sourcing of the child, the eligibility and suitability of the adoptive parents.

(b) The adopted child or the biological parents are not under any duress while giving the child in adoption.

(c) The adoption had been concluded with mutual consent of all parties concerned.

(d) There has been no monetary consideration involved in the adoption process and the adoption is in the best interest of the child.

3. I have verified and recommend the adoption to Central Adoption Resource Authority for necessary action.

Name of the DM/ADM

Office Address with Seal

Contact No:

Director (Programme)

Central Adoption Resource Authority

West Block-8, RK Puram, New Delhi-110066

Copy for information:

1. District Registrar of Birth and Death
2. State Adoption Resource Agency -----

SCHEDULE XXXIV*[Refer regulation 22C(5)]***FAMILY BACKGROUND REPORT**

Check list for District Magistrate for verification of adoption done under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956) (Pl put ✓ mark on the box as indicated below)

1. **Biological parent(s) are Hindus (As per section 2 of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956)) :**
2. **Adoptive parent(s) are Hindus (As per section 2 of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956)) :**
3. **Eligibility of adoptive male Hindu (As per section 7 of the Hindu Adoptions and Maintenance Act, 1956)**
 - (a) is of sound mind.
 - (b) is not a minor.
 - (c) has the capacity to take a son or a daughter in adoption.
 - (d) consent of his wife has been taken (unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind).
4. **Eligibility of adoptive female Hindu (as per section 8 of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956))**
 - (a) is of sound mind.
 - (b) is not a minor.
 - (c) has the capacity to take a son or a daughter in adoption.
 - (d) not married, or if married, whose marriage has been dissolved or whose husband is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind, has the capacity to take a son or daughter in adoption.
5. **Capable of giving in adoption under HAMA (As per section 9 of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956))**
 - (a) **Father** with consent of the mother unless the mother has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.
 - (b) **Mother** if the father is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.
 - (c) **Guardian** of a child shall have the capacity to give the child in adoption.
6. **Eligibility of Child for adoption (As per section 10 of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956)) –**
 - (a) he or she is a Hindu.
 - (b) he or she has not already been adopted.
 - (c) he or she has not been married, unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption.
 - (d) he or she has not completed the age of fifteen years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption.

7. Other conditions for a valid adoption (As per section 11 of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956))-

- (a) if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption.
- (b) if the adoption is of a daughter the adoptive father or mother by whom the adoption is made must not have a Hindu daughter or son's daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption.
- (c) if the adoption is by a male and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted.
- (d) if the adoption is by a female and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted.
- (e) the same child is not adopted by any other person.

Name of the DM/ADM

Office Address with Seal

Contact No.:”.

[F. No. 26/79/2020-CW-II]

PREETI PANT, Jt. Secy.

Note : The principal regulations were published in the Gazette of India, Extraordinary, Part II Section 3 sub-section (i) *vide* G.S.R. 3(E) dated 4th January, 2017 which have been amended subsequently *vide* G.S.R. 583(E) dated 11th August, 2021.

Explanatory Memorandum.

It is proposed to provide facility of inter country adoption, in the cases where adoption deed has already been executed in pursuance of adoption under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), before the commencement of these amendment regulations. It is certified that no person is prejudicially affected by giving such retrospectively.