

**EDO STATE FAMILY COURT
(CIVIL PROCEDURE) RULES 2017**

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**RULES OF COURT TO REGULATE PROCEEDING RELATING TO THE RIGHTS
ADVANCEMENT AND WELFARE OF THE CHILD UNDER THE EDO STATE CHILD RIGHTS
LAW 2007 AND FOR OTHER MATTERS INCIDENTAL THERETO.**

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THE CHILD RIGHTS LAW OF EDO STATE 2007

EDO STATE FAMILY COURT (CIVIL PROCEEDURE) RULES 2017

In the exercise of the powers conferred on me by section 158 (1) of the Child Rights Law of Edo state 2007 and all other powers enabling me in that behalf, I, HONOURABLE JUSTICE CROMWELL OSAMWONYI IDAHOSA, the Chief Judge of Edo state, hereby make the following Rules for the procedure that shall be applicable in the Family Court of Edo State.

PREAMBLE

1. The Child Rights Law as passed by the Edo State House of Assembly and assented to by the Governor of Edo State on the 18th day of May, 2007 to provide for a Law to enforce the rights of the Child, and to amend and consolidate all legislations relating to the protection and welfare of the child, in Edo State and for other purposes incidental there to.
2. Sections 146 and 147 of the Child Rights Law established for Edo state a court to be known and referred to as the Family Court at the level of the High Court of Edo State and at the levels of Magistrate Court of Edo State for the purpose of hearing matters relating to Children.
3. Section 158 (1) of the Child Rights Law empowers the Chief Judge of Edo State to make Rule for the procedure that shall be applicable in the Family Court.
4. The Court shall constantly and conscientiously seek to give effect to the overriding objectives of the Rule at every stage of an action to enforce the rights of the Child.
5. Parties and their legal representatives shall help the court to further the overriding objectives of the Rules.

RULES OF COURT TO REGULATE PROCEEDINGS RELATING TO THE RIGHTS, ADVANCEMENT AND WELFARE OF THE CHILD UNDER THE EDO STATE CHILD RIGHTS LAW NO 8 2007 AND FOR OTHER PURPOSES INCIDENTAL THERETO
Short Title - Edo state Family Court (civil procedure) Rules 2017

Commencement
(9th January, 2017)

ORDER 1

Application of these rules

1. (1) The Family Court (Civil Procedure) Rules 2017 (hereinafter referred to as “the Rules”) shall be the Rules to be followed by the family court Edo state.
2. The rules may be cited as Edo State Family Court (Civil Procedure) Rules 2015 and shall come into force on the 9th day of January 2017.

INTERPRETATION

2 (1) In these Rules and unless the context otherwise requires:

“Appropriate Authority” has the same meaning as ascribed to it in the law.

“Attorney General” means the Attorney General & Commissioner of Justice Edo State.

“Care Order” has the same meaning as ascribed to it in the Law.

“Child Proceedings” means proceedings for a care order under the Law

“Child Right Law” means the Child Rights Law of Edo State 2007 with the subsequent amendments thereto.

“Contribution Order” has the same meaning as ascribed to it in the Law.

“Court” means a High Court or a Magistrate Court designated as Family Court.

“Education Supervision Order” has the same meaning as ascribed to it in the Law

“Emergency protection Order” has the same meaning as ascribed to it in the Law-

“Enforcement order” has the same meaning as ascribed to it in the Law.

“Financial compensation Order” has the same meaning as ascribed to it in the Law.

“Guardianship order” has the same meaning as ascribed to it in the Law

“Interim Order” means order made by the Court pending a determination of the application.

“Juvenile” means a person under the age of eighteen years who cannot be treated as an adult under the criminal justice system.

“Law” means Edo State Child Right Law 2007 with the subsequent amendments thereto or any re-enactment thereof.

“Litigation Friend” means any person who conducts proceeding on behalf of a Child.

“MCA” Means Matrimonial Causes Act CapM7 Laws of the Federation of Nigeria 2004.

“Registrar of Court” means the Chief Registrar, Deputy Chief Registrar, Assistant Chief Registrar, Principal Registrar,. Senior Registrar, Higher Registrar, or any other officer acting or performing the functions of a Registrar in the Family Court.

“Supervision proceedings” means proceedings for a supervision order,

“Warning Notice” means a notice of caution attached to an order.

(3) Words and terms defined under the child’s Right Law shall have the same meaning in this context.

ORDER 2

OVERRIDING OBJECTIVE

1. These Rules are made with the overriding objective of giving protection and care as necessary for the wellbeing of the Child, taking into consideration the rights and duties of the Child’s Parents, Legal Guardians, Individuals, Institutions, Services Agencies, having regard to the best interest and welfare of any Child involved.
2. In achieving Rule 1 above, the court shall deal with cases justly, having regard to the best interest and welfare of any Child involved.
3. **Dealing with a case justly, so far as is practicable includes:**
 - (a) Ensuring that it is dealt with expeditiously and fairly.

- (b) Taking cognizance of the nature, importance and complexity of the issues,
- (c) Having regard to the special need of the child as a party; and
- (d) Saving expenses.

4. Application by the court of the overriding objective

The courts shall seek to give effect to the overriding objective when it:-

- (a) Exercises any power given to it by these Rules, or
- (b) Interprets any portion of these Rules.

5. Court's duty to manage cases

The court must further the overriding objective by actively managing cases.

(1) Active case management include:-

- (a)** Encouraging the parties to co-operate with each other in the conduct of the proceedings;
- (b)** Identifying at an early stage the issues and who should be a party to the proceedings;
- (c)** Deciding promptly which issues needs full investigation and hearing and the procedure to be followed;
- (d)** Encouraging the parties to use an alternative dispute resolution procedure if the court considers it appropriate and facilitating the use of such procedure.
- (e)** Helping the parties to settle the whole or part of the case,
- (f)** Dealing with as many aspects of the cases as it on the same occasion,
- (g)** Making use of technology, and
- (h)** Giving directive to ensure that the case proceeds quickly efficiently

ORDER 3

APPLICATION OF THE RULES

1. (1) Unless the context otherwise requires, these Rules apply to proceedings in:-

- (a) High court, and
- (b) Magistrate court.

Designated as 'Family Court'

(2) Noting in the rules shall be construed as purporting to apply to proceedings in a High Court or a Magistrate Court not designated as Family Court.

ORDER 4

ALTERNATIVE DISPUTE RESOLUTION-POWERS OF THE COURT

1. Scope of this order

This order contains the powers of the Court to encourage the parties to use alternative dispute resolution and to facilitate its use.

2. When the court will adjourn proceedings or hearing in proceedings

1. If the court considers that alternative dispute resolution is appropriate, the Court may direct that the proceedings, or a hearing in the proceedings, be adjourned for such specified period as it considers appropriate-
 - (a) To enable the parties to obtain information and advice about alternative dispute resolution, and
 - (b) Where the parties agree, to enable alternative dispute resolution take place.
2. The Court may give directions under this Order on an application of the parties or of its own initiative
3. Where the Court directs an adjournment under this order it will give a return date for parties to inform the Court if any of the issues in the proceedings have been resolved.

ORDER 5

GENERAL CASE MANAGEMENT POWERS

1. The General Powers of the Court

The list of powers in this Order is in addition to any power given to the court by any other order or practice direction or by any other enactment or any power it may otherwise have.

2. Except where these Rules provide otherwise, the Court may:-

- (a) Extend or shorten the time for compliance with Rules, practice direction or Court order (even if an application for extension is made after the time for compliance has expired),
- (b) Make such order for disclosure and inspection, including specific disclosure of documents, as it thinks fit,
- (c) Adjourn or bring forward a hearing,
- (d) Require a party or a party's legal representative to attend the court, subject to the party's right to a counsel of his choice,

- (e) Consolidate proceedings,
 - (f) Direct any party to file and serve an estimate of costs.
3. When the Court makes an order, it may make it subject to conditions, including a condition to pay a sum of money into Court and specify the consequences of failure to comply with the order or a condition.
 4. Power of the Court under these Rules to make an order includes the power to vary or vacate the order.
 5. **Any Provision in these Rules**
 - (a) Requiring or permitting directions to be given by the Court is to be taken as including provision for such direction(s) to be varied or vacated, and
 - (b) Requiring or permitting a date to be fixed includes provision for that date to be changed or cancelled,
 6. **Power to strike out application**
 - (1) The court may strike out any application if it appears to the court-
 - (a) That the Application discloses no reasonable grounds,
 - (b) That the Application is an abuse of the Court's process or is otherwise likely to obstruct the just disposal of the proceedings.
 - (c) That there has been failure to comply with a Rule, Practice direction or any Court order.
 7. Sanctions have effect unless defaulting party obtains relief
 1. Where a party has failed to comply with a Rule, Practice direction or Court order, any sanction for failure to comply imposed by the Rule, Practice direction or court order has effect unless the party in default applies for and obtain relief from the sanction
 2. Where the sanction is the payment of costs, the party in default may only obtain relief by applying for variation order provided sufficient ground is filed.
 3. Where by the Child Rights Law, Court order, Rule, or Practice direction
 - (a) A party is required to do something within a specified time, or
 - (b) Specifies the consequence of failure to comply,

The time for doing the act in question may not be extended by agreement between the parties.
 8. **General power of the Court to rectify matters where there has been an error of procedure.**
 - (1) Where there has been error of procedure such as a failure to comply with a Rule or Practice direction-

- (a) Such error shall not invalidate any step taken in the proceedings unless the Court so orders and
- (b) The Court may make an order to remedy the error.

ORDER 6

COMMENCEMENT

1. How to start proceedings

Proceedings under these Rules shall be commenced by way of an Originating motion, writ of summons or claim filed in the Family Court Registry at the High Court or Magistrate Court as the case maybe.

- 2. The originating process shall contain the relief or remedy sought, the full names and address of the Applicant including telephone numbers and email address, if any, and the full names and addresses of the Respondent or Respondents including telephone numbers and email addresses, if known to the applicant. Where the originating process is filed by a legal practitioner, it shall also contain the address within the jurisdiction of the Court, telephone numbers and email address of the legal practitioner.

3. The Originating process shall be supported by

- (a) A statement of claim
- (b) Affidavit of acts
- (c) Statement of arrangement for Children
- (d) List and copies of all other necessary documents
- (e) A statement of truth verifying all the above mentioned processes and documents.

4. Procedure in the high and magistrate court after filling originating process.

- 1. Duties of the Court and of the Parties upon issuance of originating process

On commencement of an action either at the high or magistrate court designated as Family Court pursuant to the Child Rights Law-

- (a) The Sheriff/Bailiff of Court shall within 5 (five) days beginning with the date on which the originating process was filed or such longer times as the court may allow in the case of a Respondent outside jurisdiction:-

- (i) Serve a copy to the Originating process on the Respondent, and
- (ii) File a certificate of service which shall be accompanied by a statement of truth verifying the service,

- (b) The Court shall fix a first hearing not just than one (1) week and not more than two (2) weeks after the date of the filling of the Application or seven days after the service as in (a) above whichever is the latter.
 - (c) The Sheriff/Bailiff shall, within three (3) days of the Court fixing a date of first hearing, give notice of the date of the first hearing to the Applicant and the Respondent.
 - (d) A Respondent served with the originating process within fourteen (14) days beginning with date of service or receipt or such longer time as the Court may allow in the case of a Respondent outside jurisdiction, file statement in answer and the statement shall be accompanied by an affidavit of facts, list and copies of all necessary documents.
 - (e) The statement in answer as well as the affidavit of facts and other documents of the respondent must be verified by a statement of truth.
5. The date fixed under paragraph 4 (b) above, or for any subsequent hearing, shall not be cancelled except with the Court's leave and, if cancelled, the Court must immediately fix new date.

ORDER 7

STATEMENT OF TRUTH

1. Documents to be verified by a statement of truth in the High Court
Subject to rule (8) of this order, the following documents must be verified by a statement of truth.
 - (a) A statement of claim
 - (b) An affidavit of facts
 - (c) A certificate of services
 - (d) A statement of arrangement for Children,
 - (e) A statement in answer
 - (f) All document sought to be relied on by the parties in the proceedings, and
 - (g) Any other document where Rule or Practice direction requires it.
2. Where a statement of claim or a statement in answer is amended, the amendment must be verified by a statement of truth unless the Court orders otherwise.
3. Subject to Rule 4 of this order, a statement of truth is a statement made by the party that believes the facts stated in the statement, documents(s) or certificate is to the best of his knowledge true.
4. If a party is conducting proceedings with a litigation friend, the statement of truth in:-

- (a) A statement of claim or statement of in answer, or
 - (b) An Application on notice.
- 5. The statement of truth must be signed by:-
 - (1) In the case of a statement of claim or statement in answer:
 - i. The party or litigation friend or
 - ii. The legal representative on behalf of the party or litigation friend:
 - (2) In the case of a statement of arrangements for Children, the maker of the statement
- 6. A statement of truth in a statement of claim or statement in answer maybe made by:-
 - (a) A person who is not a party or
 - (b) By two parties jointly.
- 7. Failure to verify a statement of case
 - (1) If a party fails to verify that party's statement of claim or statement in answer by a statement of truth:-
 - (a) The statement shall be liable to struck out
 - (b) The party cannot rely on the statement as evidence of any of the matters set out in it.
 - (2) The Court may strike out a statement of claim or statement in answer which is not verified by a statement of truth.
 - (3) Any party may apply for an order under Sub-Rule (2) above
- 8. Power of the Court to require a document to be verified
 - (1) The Court may order a person who has failed to verify a document in accordance with these provisions to verify the document
 - (2) Any party may apply for an order under Rule 8 of order 7
- 9. False Statements
 - (1) Proceeding for contempt of Court may be brought against a person who makes, or causes to be made a false statement in a document verified by a statement of truth without an honest belief in its truth.
 - (2) Proceedings under this Rule may be brought only:-
 - (a) By the Attorney General or,
 - (b) By a party with the leave of the Court.

ORDER 8

APPLICATIONS

1. Application for interim/interlocutory orders
A party may apply at any stage of the proceeding for-
 - (a) An order for maintenance pending commencement of an action
 - (b) An order for maintenance pending outcome of proceedings,
 - (c) An order for periodical payment,
 - (d) A variation order or
 - (e) Any other form of order.
2. Where there is a pending application by a party in court under this order before filing a financial statement, the affidavit in support shall :-
 - (a) Explain why the order is necessary and
 - (b) Give up to date information about that party's financial circumstances
3. Unless the respondent has filed a financial statement, the Respondent shall, at least 7 days before the Court deals with Application, file a statement of his means and serve a copy on the Applicant.
4. Application by parent, guardian etc for financial remedy in respect of Children.
 - (1) The following persons may apply for a financial remedy in respect of a Child.
 - (a) A parent, guardian or litigation friend of a Child.
 - (b) Any person in whose favor a residence order has been made with respect to a Child of the family and any applicant for such an order;
 - (c) Any other person who is entitled to apply for a custody order with respect to a Child
 - (d) Approved orphanages and remand homes under whose care the Child is placed;
 - (e) The child's Solicitor;
 - (f) A Child who has been given permission by the Court to apply for a financial remedy.
5. Service of Application for financial remedy on Mortgages, Trustees, Executors, Administrators, etc.
 - (1) Where an Application for a financial remedy includes an application for an order for a variation of settlement or an order for payment of money out of any estate or trust the applicant must serve copies of
The Application on-
 - (a) The trustees of the settlement;
 - (b) The settler if living
 - (c) The executors or administrators of the estate and
 - (d) Such other persons as the Court directs

- (2) In the case of an application for avoidance of disposition order, the Applicant must serve copies of the application on the person in whose favor the disposition is alleged to have been made.
- (3) Where an application for a financial remedy includes an application relating to land, the Applicant must serve a copy of the application on any mortgagee of whom particulars are given in the application.
- (4) Any person served under Sub-Rules (1), (2) or (3) of this Rule may make a request to the Court in writing, within 7 days beginning with the date of service of the Application, for a copy of the Applicant's financial statement or any relevant part of that statement.

(5) Any person who:-

- (a) Is served with copies of the Application in accordance with sub-Rules (1), (2) or (3) of this Rule or
- (b) Receives a copy of a financial statement, or a relevant part of that statement following an application made under Sub-Rule (4) of this Rule.
May within 14 days beginning with the date of service or receipt file a statement in answer.
- (c) Where a copy of an application served under Sub-Rules (1), (2) or (3) of this Rule, the bailiff shall file an affidavit of service on or before the first hearing.
- (d) A statement in answer filed under sub-Rule (5) of this Rule must be verified by a statement of truth.

6. Children to be separately represented on certain Applications

- (1) Where an Application for a financial remedy includes an application for an order for a variation of settlement, the Court must, unless it is satisfied that the proposed variation does not adversely affect the rights, or interests of any Child concerned, direct that the Child be separately represented on the Application.
- (2) On any other application for a financial remedy the Court may direct that the Child be separately represented.
- (3) Where a direction is made under Sub-Rule (1) or (2) of this Rule, the Court may if the person to be appointed so consents, appoint
 - (a) A person other than the solicitor on Record; or
 - (b) A social development officer to separately represent the Child.

7. Subject to Sub-Rule (1) of this Rule, where a party has access to information which is not reasonably available to another party; the Court may, on Application by the other party, direct the party who has access to

the information to prepare, file and serve a document recording the information.

1. In proceedings for application in addition, placement and related proceedings.
 - (a) The Court may direct the party with access to the information to prepare and file a document recording the information; and
 - (b) A Court officer will send a copy of that document to the other party.

ORDER 9

CHILD'S GUARDIAN

1. Appointment of Guardian for a Child

- (1) The Court may make an order appointing any fit and suitable person upon a satisfactory assessment report on the person issued by appropriate officers as may be specified by the Court as a guardian of a child.
- (2) An order appointing a guardian for a Child may be made by the Court of its own initiative or on the application of:-
 - (a) A person who wishes to be a guardian for the Child.
 - (b) A party to the proceedings or
 - (c) The appropriate authority as specified in section 270 of the (Child Rights Law of Edo State).
- (3) The Court may at any time direct that a party make an application for an order under Sub-Rule (2) of this order.
- (4) An application for an order appointing a guardian for a Child must be supported by evidence of suitability and fitness of the Applicant or of the person sought to be made the guardian.
- (5) The Court may not appoint a person as a guardian for a Child under this order unless it is satisfied that, that person:-
 - (a) Can fairly and competently conduct proceedings on behalf of the Child;
 - (b) Has no interest adverse to that of the Child; and

- (c) Undertakes to pay any costs which the Child may be ordered to pay in relation to the proceedings, subject to any right that person may have to be repaid from the assets of the Child.
2. Court's power to change a guardian and to prevent a person acting as a guardian for a child.
- (1) The Court may:-
- (a) Direct that a person may not act as a guardian for a Child.
- (b) Terminate the appointment of a guardian for a Child or;
- (c) Appoint a new guardian for a Child in substitution for an existing one.
- (2) An application for an order or direction under Sub-Rule (1) of this Rule must be supported by evidence of unsuitability of the person concerned to act as a guardian.
- (3) The Court may not appoint a guardian for a Child under this order unless it is satisfied that the person to be appointed complies with the condition specified in Rule (1) Sub-Rule (5) of this order.
3. When appointment of a guardian comes to an end:
- When a Child attains the age of 18 years the appointment of a guardian terminates.

ORDER 10

WELFARE REPORT

1. Request by Court for a welfare report in respect of a Child
- (1) In proceedings under the Child Rights Law, it shall be the duty of the Social Development Officer in the appropriate ministry to comply with the any Court order requesting for welfare report in respect of a Child.
- (2) It is the duty of such officer to:-

- (a) Comply with any request for a report under this order
- (b) Provide the Court with such other assistance as it may require
- (3) A report to the Court under this order shall be served on all parties.
- (4) A party may question the officer about oral or written advice tendered by that officer to the Court.
- (5) The Registrar of Court shall notify the officer of a direction given at a hearing at which the officer is not present.

ORDER 11

EVIDENCE GENERALLY

1. Power of Court to control evidence

(1) The Court may control the evidence by giving directions as to:-

- (a) The issues on which it requires evidence
- (b) The nature of the evidence which it requires to decide those issues;
and
- (c) The way in which the evidence is to be placed before the Court.

2. Evidence by video link or other electronic means

The Court may allow a witness to give evidence through a video link or by other electronic means.

3. Affidavit of Facts

- (1) An affidavit of facts is a written affidavit signed by a person which contains the evidence which that person would be allowed to give orally.
- (2) An affidavit of facts must comply with requirements set out in the Evidence Act.

4. Use at the hearing of affidavit of facts which have been served.

- (1) If a party:-

- (a) Has served an affidavit of facts; and
 - (b) Wishes to rely; at the hearing on the evidence of the witness who made the affidavit. That party must produce the witness in Court to affirm the making of the affidavit.
- (2) The affidavit of facts of a witness produced in Court under Sub-rule 1 of this Rule is to stand as the evidence in chief of that witness.
- (3) A witness produced in Court at the hearing may with the permission of the Court be called:-
- (a) To give oral evidence to amplify his affidavit of facts; and/or
 - (b) Give evidence in relation to new matters which have arisen since the affidavit of facts was served on the other parties.
- (4) the Court shall grant leave under Sub-Rule (3) of this Rule only if it considers that there is good reason not to confine the evidence of the witness to the contents of the affidavit of facts.

(5) Consequence of failure to serve affidavit of facts

If an affidavit of facts for use at the hearing is not served in respect of an intended witness within the time specified by the Court, then the witness may not be called to give oral evidence unless the Court grants leave,.

(6) Cross Examination on an affidavit of facts

A witness who is called to give evidence at the hearing may be cross-examined on the affidavit of facts, whether or not the affidavit or any part of it was referred to during the witness evidence in chief.

(7) Affidavit made outside the jurisdiction

(1) A person may make an affidavit of facts outside the jurisdiction in accordance with:-

(a) The provision of the Evidence Act 2011 Laws of the Federation of Nigeria, or

(b) The Law of the place where the affidavit is made

8. Notice to admit facts

- (1) A party may serve notice on another party requiring the other party to admit the facts, or the part of the case of the serving party specified in the notice.
- (2) A notice to admit facts must be served not later than fourteen (14) days before the hearing
- (3) Where the other party makes any admission in answer to the notice, the admission may be used against that party only in the proceedings in which the notice to admit is served; and by the party who served the notice.

9. Notice to admit or produce documents

- (1) A party to whom a document is served is deemed to admit the authenticity of that document unless notice is served by that party that he disputes the authenticity of the document.
- (2) A notice of intention to dispute a document must be served.
 - (a) By the latest date for serving affidavit of facts or
 - (b) Within seven (7) days beginning with the date of service of the document, whichever is later.

10. Notarial Acts and Instruments

A notarial act or instrument may be received in evidence, without further proof as duly authenticated in accordance with the requirements of Law unless the contrary is proved.

11. Where a person to be examined is in another state

- (1) Where a party wishes to take a deposition from a person who is:-
 - (a) Outside the jurisdiction of the Court; and
 - (b) In a place outside Nigeria.

Such deposition must be notarized

- (2) There shall be need to file a translation if the deposition is done in any language other than English Language.

ORDER 12

EXPERTS AND ASSESSORS

1. A reference to an “expert” in this Order:-

- (a) Is a reference to a person who has been instructed to give or prepare expert evidence for the purpose of family proceedings;
- (b) Such person or expert may include officers of the welfare department of the relevant ministry or department responsible for Child welfare.
- (c) In the case of adoption, such person/experts shall include officers from the relevant ministry or department.

2. Court’s power to restrict expert evidence

- (1) No party may call an expert or put in evidence an expert’s report without the leave of court.
- (2) When parties apply for leave they must identify;-
 - (a) The field in which the expert evidence is required; and
 - (b) Where practicable, the name of the proposed expert.
- (3) If leave of Court is granted, it shall be in relation only to the expert named or the filed identified under Sub Rule (2) of this Rule.

3. Contents of report

- (1) An expert’s report must comply with the requirements of this Rule and as may be stipulated in Practice Direction.
- (2) At the end of an expert’s report there must be a statement that the expert understands and has complied with his duty to the Court.

4. Use by one party of expert report disclosed by another

Where a party has disclosed an expert's report, any party may use that expert's report as evidence at any relevant hearing.

5. Expert's right to ask Court for an order.

- (1) Experts may file written requests for any order of Court for the purpose of assisting them in carrying out their functions.
- (2) Experts must, unless the Court directs otherwise, serve copies of the proposed request for the order under Sub-Rule (1) of this Rule-to the party instructing them and to all other parties.
- (3) The Court, when it makes an order, may also direct that a party be served with a copy of the order.

6. Assessors

- (1) This Rule applies where the Court appoints one or more persons under section 38 of the Child Rights Law 2007 or section 63 of MCA as an Assessor.
- (2) An assessor will assist the Court in dealing with a matter in which assessor has skill and experience.
- (3) The assessor will take such part in the proceedings as the Court may direct and in particular-the Court may direct an assessor to:-
 - (a) Prepare a report for the Court on any matter in issue in the proceedings;
 - (b) Attend the whole hearing to advise the Court in any such manner or matter.
- (4) If the assessor prepares a report for the Court before the hearing begins.
 - (a) The Court will send a copy to each of the parties; and
 - (b) The parties may use it at the hearing
- (5). Unless in the case of official Court assessors where the Court appoints an assessor for the purpose of preparing a report on any matter in issue, party or parties may be ordered to pay, a specified sum in respect of the assessor's fees.

ORDER 13

SPECIAL PROCEEDINGS RELATING TO CHILDREN

1. Applications under this part shall apply to

- (a) Emergency proceedings;
- (b) Private Law proceedings
- (c) Public Law proceedings
- (d) Proceedings relating to the exercise of the Court's inherent jurisdiction (other than applications for the Court's permission to start such proceedings);
- (e) Proceedings relating to Child adoption and the recognition, and enforcement of decisions relating to custody;
- (f) Any other proceedings which may be referred to in a practice direction.

2. "Emergency Proceedings" means proceedings for:

- 1 (a) The disclosure of information as to the whereabouts of a Child under the Child Rights Law.
- (b) An order authorizing the taking charge of a Child under the Child Rights Law;
- (c) An emergency protection order and other ancillary reliefs.

2. Application under Sub-Rule (1) of rule 2" of this order may be brought by the appropriate authority.

3. The Court shall issue an order for emergency proceedings where it is satisfied that relevant provisions of the Child Rights Law have been complied with by the Applicant.

4. The Court may vary any emergency protection order at its own discretion only in the interest of the Child.

5. Emergency protection orders made pursuant to the provisions of the Law shall not exceed nine (9) days provided that the Court may upon application extend the effective period of an emergency protection order if satisfied that it shall serve the interest and welfare of the Child.

6. Emergency Protection order may only be extended once.

7. Any of the following persons may apply to the Court to have an emergency protection order discharged.
 - (a) The Child
 - (b) A parent of the Child
 - (c) A person who has parental responsibility for the Child or a person with whom the Child was living immediately before the making of the order.

Provided that no such application to discharge shall be brought to the Court before the expiration of three (3) days beginning with the making of the order.

3. "Private Law proceedings" means proceedings relating to:-

- (1) (a) An order relating to a Child who is the subject of a care order
Under Section 47 of the Law;
- (b) A parental responsibility order or an order terminating parental responsibility pursuant to Section 48 of the Law.
- (c) An order appointing a Child's guardian or an order terminating the appointment of a Child's guardian pursuant to Section 81 and 83 of the law.
- (d) Appointment of a guardian ad litem pursuant to section 86 of the Law and revocation of guardianship pursuant to Section 83 of the Law.
- (e) An order giving permission to change a Child's surname or remove a Child from the Federal Republic of Nigeria.
- (f) A special guardianship order except where that order relates to a Child who is subject of a care order.
- (g) An enforcement order;
- (h) A financial compensation order;
- (i) An order following a breach of an enforcement order;
- (j) An order revoking or amending an enforcement order, or

(k) An order that a warning notice be attached to a visitation order; (2) In the case of a care order under Section 47 of the Law, it shall have the effect as provided in Section 49 of the same Law.

4. **“Public Law proceedings” means proceedings for:-**

- (a) A residence order relating to a Child who is the object of a care order;
- (b) A special guardian order relating to a Child who is the subject of a care order;
- (c) A secure accommodation order;
- (d) A care order, or the discharge of such an order
- (e) An order given permission to change a child’s surname or remove a child from the Federal Republic of Nigeria;
- (f) A supervision order, the discharge or variation of such an order or the extension or further extension of such an order.
- (g) An order making provision regarding contact or an order varying or discharging such an order under part VI of the Law.
- (h) An education supervision order, the extension of an education supervision order or the discharge of such an order pursuant to Section 55 of the Law and the supplementary provisions set out under Sections 12, 13, 14, 15 and 16 under the supervision orders to Schedule 1 of the law.
- (i) An order varying directions made with an interim care order or interim supervision order.
- (j) An order varying a supervision order in so far as it affects a person with whom the Child is living but who is not entitled to apply for the order to be discharged.
- (k) An order varying or discharging an interim care order in so far as it imposes an exclusion requirement on a person who is not entitled to apply for the order to be discharged.
- (l) An order varying or discharging an interim care order in so as far as it confers a power of arrest attached to an exclusion requirement;
- (m) The substitution of a supervision order for a care order;

- (n) A Child assessment order, or the variation or discharge of such an order;
- (o) An order permitting the social welfare office to arrange for any Child in its care to live outside the Federal Republic of Nigeria.
- (p) A contribution order, or revocation of such an order.

ORDER 14

PROCEDURE FOR APPLICATIONS IN ADOPTION, FOSTERING AND RELATED PROCEEDINGS

1.(1) The Rules in this Part shall apply to the following proceedings-

- (a) Adoption
- (b) Fostering
- (c) Any other proceedings (e.g. placement) as may be referred to in a Practice Direction.

(2) Parties in adoption proceedings

An application for adoption may be made by any of the following person(s)-

- (i) By the prospective adopter(s)
- (ii) Any parent(s), person(s) with parental responsibility to look after or care for the child.

(3) The Court may at any time direct that a Child, who is not already a party to the proceedings be made a party where:- (a) The Child:-

- (i) Wishes to make an application; or
- (ii) Has evidence to give to the Court which has not been given by any other party to the proceedings or
 - (b) There are other special circumstances necessitating the Child being made a party.

(4) The Court may at anytime direct that:-

- (a) Any other person or body be made a respondent to the Proceedings; or
- (b) A party be removed

(5) If the Court makes an order for the addition or removal of a party it may give consequential orders about:-

- (A) Serving a copy of the application form on any new respondent

- (B) Serving relevant documents on the new party and
- (C) The management of the proceedings pursuant to Rule 5 of this order.

2. Service of Process

The General Rules about servicing under the High Court (Civil Procedure) Rules and or the Magistrate (Court Civil Procedure) Rules shall apply.

3. Power of Court to make adoption orders

(1) Subject to the provisions of the Child Rights Law and the schedule to these rules, the Court may, upon the application of a person, in the prescribed manner, make an order (hereinafter referred to as an “adoption Order”) authorizing such person to adopt a Child or a juvenile.

(2) An adoption order may be made upon the application of spouses jointly to adopt a Child but in no other case shall an adoption order be made granting leave to more than one person to adopt a Child.

(3) Any Child above the age of one year may be voluntarily given out for adoption by his parents.

4. General Restrictions on the power of Court to grant Adoption orders.

(1) An Adoption order shall not be made unless:-

(a) The Applicant, or in the case of joint Applicants, one of them is not less than twenty-five years old and is at least twenty-one years older than the Child

(b) Applicant or in the case of joint applicants both or at least one of them and the Child are resident in Edo State.

(c) The Child had been in the care of the Applicant(s) for a period of at least three consecutive months immediately proceeding the date on which the adoption order is made and

(d) The applicant has at least three months before the making of the order informed the probation officer of his intention to adopt the Child.

(2) An adoption order shall not be made by Court in respect of a female Child where the sole applicant is a male unless there are exceptional circumstances which the Court thinks justify the making of such an order.

5. Consent to adopt

- (1) Where a married man or woman is the sole applicant for an adoption order, the Court shall, if it thinks fit, refuse to make the order unless the consent of the wife or husband, as the case may be, is first obtained.
- (2) Where it appears to the Court that a person other than the father or mother or relative of a Child has any right or obligation in respect of the Child under any order of the Court or any agreement or under customary Law, the Court shall, if it deems fit, refuse to make the adoption order unless the consent of that person is first obtained.
- (3) It shall be the duty of the Social Welfare Officer on an application for an adoption order in respect of a Child, to prepare a report to assist the Court in determining whether any person who is not a parent or relative of the Child has any rights or obligation in respect of that Child and whether the consent of any such person ought first to be obtained.

- (4) Any consent under Sub Rules (1) & (2) of this Rule may be given either:-
 - (i) Unconditionally or
 - (ii) Subject to conditions with respect to the religious persuasion in which the Child is to be brought up.

In giving consent under this Rule it may not be necessary for the person giving the consent to know the identity of the Child for the adoption order.

- (5) The Court may dispense with any consent required under this Rule if it is satisfied that the person whose consent is required cannot be found or is incapable of giving his consent.

- (6) Duty of Court in the grant of adoption orders:-
 - (1) The Court shall, before making an adoption order; satisfy itself that:-
 - (a) Every consent required pursuant to section 129 of the Law which has not been dispensed with has been obtained.
 - (b) Every person who has given his consent understands the nature and effect for the adoption order for which the application is made;
 - (c) The order if made, shall be for the welfare of and in the best interest of the Child with due consideration being given to the wishes of the Child having regard to his age and understanding.
 - (d) The Applicant has not received or agreed to receive, and no person has made or agreed to grant or give to the Applicant any payment or other reward in consideration of the adoption.
 - (2) The Court may, in granting an Adoption order, impose such terms and conditions as the Court may deem fit, and in particular, may require the

adopter, by bond or otherwise, to provide for the Child such provisions, if any, as in the opinion of the Court, are just and expedient.

7. Interim Orders

(1) Subject to the provision of Section 132 of the Law; the Court may, on an application for an adoption order, postpone the determination of the Application and make an interim order giving the custody of the Child to the Applicant for a period not exceeding two years on probation, and upon such terms as the Court deems fit as regards provision for the maintenance, education and supervision of the welfare of the Child and otherwise.

(2) The Court shall in granting an interim order under Sub-Rule 1 of this Rule make the following interim orders:-

(a) That the Child shall be under the supervision of such welfare Officer as The Commissioner may appoint and (b) That the Child shall not be taken out of Edo State without the consent of the Court.

(3) The requirement of consent under Sub-Rules (1) & (2) of Rule 5 of this order and the power of Court to dispense with such consent as provided under Sub-Rule 5 of Rule 5 of this order shall be applicable to the grant of an interim order.

(4) An interim order shall not be made in any case where the making of an adoption order would be unlawful under the Child Rights Law.

(5) An interim order shall not be deemed to be an adoption order within the meaning of the Child Rights Law.

8. Adoption where Correction order is in place

The Court may, in an application for adoption order in respect of a Child over whom a corrective order is pending, on being satisfied that

The adoption would be for the welfare of the Child concerned, suspend the corrective order, and grant an interim order so as to enable the Applicant to have the Child for a period of at least three consecutive months immediately preceding the date of the adoption order.

9. An adoption order shall be granted in the form specified in schedule 2 of these Rules.

10. Effect of Adoption order

Adoption order granted under this order shall have the effect as contained in section 138 of the Child Rights Law.

ORDER 15

Application by a person who is not a citizen of Nigeria

Where the applicant for an adoption order, or in the case of a joint application one of the applicants, is not a citizen of Nigeria the Court shall in the exercise of its powers under the Child Rights Law postpone the determination of the application for a period of not less than six months and may make an interim order as it deems fit.

ORDER 16

Jurisdiction of the Court

Subject to any rule of Court made pursuant to Section 133 of the Child Rights Law, an application for an adoption order shall be made to a Family Court only.

ORDER 17

Appeals

- (I) An appeal shall lie to the Family Court at the High Court level from the Family Court at the Magistrate Court level in respect of any decision or any application for an adoption order, other than an interim order of adoption.
- (II) Where the Family Court at the High Court level exercises original or appellate jurisdiction, appeal shall lie to the Court of Appeal.

ORDER 18

Miscellaneous Provisions

1. The Appendix to the Rules shall form part of the Rules
2. Where a matter affecting the welfare, interest and rights of a Child arises and in respect of which no adequate provisions are made in these Rules, the Court shall adopt such procedure as will in its view meet the best interest of the Child.

SCHEDULE 1

(ORDER 14 RULE 3(1))

FORM:- ADOPTION FORM

Basic Requirement for Adoption

Typed application letter, stating the reasons for the adoption, duly signed by the adopters and addressed to:-

The Commissioner,
Ministry of Women Affairs and
Social Development.

International:

Copies of documents to be attached:

- Birth Certificate of Adopters 2 copies
- Marriage Certificate of Adopters 2 copies
- Medical Certificate of fitness (original) 2 copies
- 4 Coloured passport photographs of applicant(s) 1 set each
- Proof of Employment; 2 copies
- Photocopy of identify card 2 copies
- To whom it may concern from employer 2 copies
- Letter of employment 2 copies
- 3 months salary pay slip (Most recent) 2 copies

- Utility bill for the last three months immediately preceding the application (energy, water, gas, telephone, etc) 2 copies
- Statement of account for 6 months (Recent) 2 copies
- Data Page(s) of International Passport (colored) 4 copies
- Tax Returns Certificate for immediate last 3 years 2 copies
- Home study report from country of domicile 2 copies
- Certificate of Naturalization (if applicable) 2 copies
- Law of Adoption from country of domicile 2 copies
- Evidence of payments of application fee
- Contact telephone number of adopter in Nigeria.

Requirement for Legalization (Local)

- Typed application form in triplicate
- Birth certificate of the Adopters/Declaration of Age

- Marriage Certificate of the Adoptive parents
- Medical certificate of fitness issued by any Edo State Government Hospital
- Proof of employment attached to the Bank statement of the adoptive parents
- Income tax clearance certificate
- Release form from the Ministry of Women Affairs and Social Development
- Letter from the Orphanage stating that they have found a baby with the medical certificate attached
- Police extract and covering note
- Probation officers report
- 5x7 picture baby and parent(s) 2 copies
- 5x7 picture baby alone 2 copies
- 4 passport photographs of baby
- 1 file jacket.

Further Guidelines for International Adoption (Procedure for Nigerians Living Abroad)

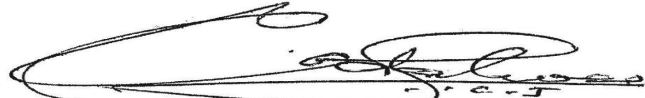
- Interview with the Director, Social Welfare
- Submission of data pages of International passport
- Payment of prescribed fees
- Complete appropriate forms and obtain list of requirements
- Submission of relevant documents
- Administrative processing
- Collection of letter of approval
- Collection of Child from registered Orphanages
- Legalization at the family Court after three (3) months.

SCHEDULE 2

ADOPTION ORDER FORMS:-

Other forms in the Eleventh Schedule of the Child Rights Law (Pages 251-257)

Dated This, 3rd January 2017.



Hon. Justice Cromwell Osamwonyi Idahosa
Chief Judge,
Edo State.