

## **PROCEDURE FOR ADOPTION OF A CHILD FROM INDIA**

The Supreme Court of India has laid down that every application from a foreigner / NRI / PIO (as applicable) desiring to adopt a child must be sponsored by a social or child welfare agency recognised or licensed by the Government or a Department of the Foreign Govt. to sponsor such cases in the country in which the foreigner is resident. The foreign agency should also be an agency 'authorised' by CARA, Ministry of Social Justice & Empowerment, Govt. of India. No application by a foreigner / NRI / PIO for taking a child in adoption should be entertained directly by any social or child welfare agency in India.

### **Criteria for Foreign Prospective Adoptive Parent/s (FPAP):**

- Married couple with 5 years of a stable relationship, age, financial and health status with reasonable income to support the child should be evident in the Home Study Report.
- Prospective adoptive parents having composite age of 90 years or less can adopt infants and young children. These provisions may be suitably relaxed in exceptional cases, such as older children and children with special needs, for reasons clearly stated in the Home Study Report. However, in no case should the age of any one of the prospective adoptive parents exceed 55 years.
- Single persons (never married, widowed, divorced) up to 45 years can also adopt.
- Age difference of the single adoptive parent and child should be 21 years or more.
- A FPAP in no case should be less than 30 years and more than 55 years.
- A second adoption from India will be considered only when the legal adoption of the first child is completed.
- Same sex couples are not eligible to adopt.

### **The following procedures will be followed in all cases of inter-country adoptions:**

#### **Step I) Enlisted Foreign Adoption Agency (EFAA)**

- The applicants will have to contact or register with an Enlisted Foreign Adoption Agency (EFAA)/Central Authority/Govt. Deptt. in their country, in which they are resident, which will prepare the Home Study Report (HSR) etc. The validity of "Home Study Report" will be for a period of two years. HSR report prepared before two years will be updated at referral.
- The applicants should obtain the permission of the competent authority for adopting a child from India. Where such Central Authorities or Government departments are not available, then the applications may be sent by the enlisted agency with requisite documents including documentary proof that the applicant is permitted to adopt from India
- The adoption application dossier should contain all documents prescribed in **Annexure-2**. All documents are to be notarized. The signature of the notary is either to be attested by the Indian Embassy/High Commission or the appropriate Govt. Department of the receiving country. If the documents are

- in any language other than English, then the originals must be accompanied by attested translations
- A copy of the application of the prospective adoptive parents along with the copies of the HSR and other documents will have to be forwarded to RIPA by the Enlisted Foreign Adoption Agency (EFAA) or Central Authority of that country.

#### Step II) Role of Recognised Indian Placement Agency (RIPA)

- On receipt of the documents, the Indian Agency will make efforts to match a child who is legally free for inter-country adoption with the applicant.
- In case no suitable match is possible within 3 months, the RIPA will inform the EFAA and CARA with the reasons therefore.

#### Step III) Child being declared free for inter-country adoption - Clearance by ACA

- Before a RIPA proposes to place a child in the Inter country adoption, it must apply to the ACA for assistance for Indian placement.
- The child should be legally free for adoption. ACA will find a suitable Indian prospective adoptive parent within 30 days, failing which it will issue clearance certificate for inter-country adoption.
- ACA will issue clearance for inter-country adoption within 10 days in case of older children above 6 years, siblings or twins and Special Needs Children as per the additional guidelines issued in this regard.
- In case the ACA cannot find suitable Indian parent/parents within 30 days, it will be incumbent upon the ACA to issue a Clearance Certificate on the 31<sup>st</sup> day.
- If ACA Clearance is not given on 31<sup>st</sup> day, the clearance of ACA will be assumed unless ACA has sought clarification within the stipulation period of 30 days.
- NRI parent(s) (at least one parent) HOLDING Indian Passport will be exempted from ACA Clearance, but they have to follow all other procedures as per the Guidelines.

#### Step IV) Matching of the Child Study Report with Home Study Report of FPAP by RIPA

After a successful matching, the RIPA will forward the complete dossier as per Annexure 3 to CARA for issuance of “No Objection Certificate”.

#### Step V) Issue of No Objection Certificate (NOC) by CARA

- RIPA shall make application for CARA NOC in case of foreign/PIO parents only after ACA Clearance Certificate is obtained.
- CARA will issue the ‘NOC’ within 15 days from the date of receipt of the adoption dossier if complete in all respect.
- If any query or clarification is sought by CARA, it will be replied to by the RIPA within 10 days.
- No Indian Placement Agency can file an application in the competent court for inter-country adoption without a “No Objection Certificate” from CARA.

#### Step VI) Filing of Petition in the Court

- On receipt of the NOC from CARA, the RIPA shall file a petition for adoption/guardianship in the competent court within 15 days.
- The competent court may issue an appropriate order for the placement of the child with FPAP.
- As per the Hon'ble Supreme Court directions, the concerned Court may dispose the case within 2 months.

#### Step VII) Passport and Visa

- RIPA has to apply in the Regional Passport Office for obtaining an Indian Passport in favour of the child.
- The concerned Regional Passport Officer may issue the Passport within 10 days.
- Thereafter the VISA entry permit may be issued by the Consulate / Embassy / High Commission of the concerned country for the child.

#### Step VIII) Child travels to adoptive country

The adoptive parent/parents will have to come to India and accompany the child back to their country.

#### Criteria for eligible children:

- The child must be legally free for adoption.
- Clearance from ACA/State Government is mandatory for all children except wherever exempted under the Guidelines.
- Siblings/twins/triplets cannot be separated except in exceptional cases.
- Two unrelated children cannot be proposed to a foreign family at a time.
- A child may as far as possible be placed in adoption before it reaches the age of 12.
- The consent of the child has to be obtained wherever applicable.

#### Where there is no Enlisted Foreign Adoption Agency (EFAA)

In the case of an Indian National residing in a country where there is no Enlisted Agency, CARA may allow an organisation or individual recommended by the Indian Embassy to do the Home Study Report (HSR), undertaking as prescribed in the Guidelines and other documentation. The said application may be forwarded with the approval of the Indian Embassy to CARA.

Wherever there is no Foreign Adoption Agency enlisted by CARA in any country, the concerned Government Department/Ministry or any authorized body of that country may forward the original application and related documents of the prospective adoptive parents to CARA through the Indian Embassy/High Commission. In case of resident non-citizens where the host Govt. may not be willing to sponsor the cases, the documentation may be done through the Embassy of the country to which the applicant belongs. Home studies however will have to be prepared by a qualified Agency/Social Worker in all cases. In case CARA receives the papers it will send those papers to any of the Recognised Indian

Placement Agencies (RIPA) for further processing the case only after HSR has been approved by it. The procedure to be adopted thereafter shall be the same as indicated in the process.

#### Foreign nationals living in India

In case of foreigners who have been living in India for one year or more, the HSR and other connected documents may be prepared by the RIPA which is processing the application of such foreigners for the guardianship of the child. An undertaking should be given by the concerned Embassy/High Commission that the child will be legally adopted in that country and also mention an agency/orgn. who would send the progress reports and take care of the child in case of any disruption as and when the child is taken abroad. However a certificate is required from the competent authority in the country of permanent residence of the FPAP indicating that the child shall be allowed to enter the country and get adopted in due course.

#### Rights of the child taken abroad

When the Court makes an order appointing adoptive parents as the guardians of the child, the order shall contain an undertaking of the adoptive parents that they shall protect and safeguard the best interest of the child and that the child would be legally adopted in the receiving State not later than two years from the date of the order. On such adoption in the receiving State, subject to the Laws of the country the child would have all rights recognized under International Law.

For further information please visit <https://cara.wcd.gov.in/>