

Act No. 67 of 2000

ADOPTION OF CHILDREN ACT

Consolidated with Bill laid November 19, 2014 as published on Parliament website

AN ACT to make provision for the regulation of procedures governing the adoption of children and to give effect to the United Nations Convention on the Rights of the Child, 1989 .

[Assented to 12th October, 2000]

Commencement

ENACTED by the Parliament of Trinidad and Tobago as follows:—

Enactment

PART I PRELIMINARY

1. This Act may be cited as the Adoption of Children Act, 2000 and shall come into effect on a date to be proclaimed by the President.

Short title and commencement

2. In this Act—

Interpretation.

“adopter” means a person who applies or who has adopted a child, in pursuance of an adoption order;

“adoption order” means an order made under this Act and includes an interim order made under section 19;

“child” means a person under the age of eighteen years who has never been married;

“child-care centre” deleted

“cohabitant” has the meaning assigned to it under section 2 of the Cohabitation Relationship Act;

“Court” means Court with jurisdiction for family matters ;¹

¹ Amended by Act 9 of 2003

This consolidation has been prepared as an aid to reviewing the proposed amendments to the Act. It is not a definitive text and reference should always be made to the Act and any amending Act/Bill to confirm its accuracy –S.Daly, S.C.

“former parent” means a person who had care and control of a child prior to any application to adopt the child;

“guardian”, means a person with guardianship as defined in the Family Law (Guardianship of Minors, Domicile and Maintenance) Act;

“medical practitioner” means a person registered under the Medical Board Act;

“Minister” means the Minister to whom responsibility for ***the welfare of children*** is assigned;

“relative” means a grandparent, brother, sister, uncle or aunt, whether by consanguinity or affinity;

“resident” has the meaning assigned to it by section 5 of the Immigration Act;

Chap. 18:01

“spouse” means the husband or wife of a person or the widow or widower of a deceased person;

[Part II – Adoption Board Sections 3 – 8 repealed as provision is placed in Children’s Authority Act]

PART III ARRANGEMENTS FOR ADOPTION

9. (1) No person other than the ***Authority*** shall make arrangements for the adoption of a child.

Adoption
arrangements

(2) For the purposes of this Act, a person who takes part in the arranging of an adoption or in the management or control of a body of persons other than the ***Authority*** which exists wholly or in part for the purpose of making arrangements for the adoption of children is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for two years.

(3) For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a child if he, not being the parent or guardian of the child, enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected, in pursuance of an adoption order or otherwise, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another to do so.

(4) The Court shall not entertain an application for adoption unless that application is supported by a recommendation from the *Authority*.

10. In making arrangements for the adoption of a child the *Authority* shall— Duty to promote welfare of child.

- (a) have regard to all the circumstances and first consideration shall be given to the need to safeguard and to promote the welfare of the child;
- (b) so far as is practicable ascertain the wishes of the child and give due consideration to them having regard to the age and understanding of the child.

11. The *Authority*, *when* placing a child with *an* adopter, *shall* have regard, so far as practicable, to the wishes of the parent, guardian *or child in relation* to the religious upbringing of the child. Religious upbringing of child

12. (1) *Subject to subsection(2)* *an* application to the *Court* for an adoption order shall not be made until the expiration of a period of six months (to be known as “the probationary period”) from the date on which the child is delivered into the care of the adopter. Probationary period

(2) The *Authority* may waive or reduce the probationary period mentioned in subsection (1) where—

- (a) one of the applicants is the spouse or cohabitant of the natural parent of the child;
- (b) *one of the applicants is a parent, step-parent or relative of the child, or has been a step-parent or relative of the child;*
- (c) the child has been in the care and *control* of the adopter continuously for a period of not less than two years and the adopter is now seeking an adoption order in respect of the child; or
- (d) the *Authority* is satisfied that it will be in the best interest of the child to do so.

(3) At any time during the probationary period-

- (a) the adopter may give notice in writing to the *Authority* of his intention not to adopt the child; or
- (b) the *Authority* may give the adopter notice in writing of the *Authority’s* decision not to allow the child to remain in the care of the adopter.

(4) Where the *Authority* makes a decision not to allow the child to remain in the care of the adopter it shall give reasons for its decision to the adopter.

(5) Where notice is given by the adopter or the *Authority* under subsection (3), the *Authority may* within *twenty-one*² days of the date on which the notice was given, remove the child from the care of the adopter.

(6) If at the expiration of the probationary period no notice has been given in accordance with subsection (3), the adopter may, within twenty-one days *following the expiration of the probationary period*, apply to the Court for an adoption order in respect of the child or shall give notice in writing to the *Authority* of his intention not to apply for such an order.

(7) Where notice is so given, or an application for an adoption order in respect of the child is refused by the Court, the *Authority may within twenty-one days*³ of the date on which the notice was given or of the date upon which the application was refused, remove the child from the care of the adopter.

13. (1) Before an adoption order is made in respect of a child who has been in the care and *control* of an applicant-

Removal of child from custody of applicant.

(a) for *at least three*⁴ years preceding the application, *or*

(b) *for substantially all or most of his life*,

no person shall remove that child from *such care and control*⁵ of the applicant against the applicant's will except with the leave of the Court or under any written law or *upon* the arrest of the child.

(2) A person who contravenes *subsection (1)* commits an offence and is liable on summary conviction to a fine of five thousand dollars *and* imprisonment for *nine* months.⁶

(3) *Where a person is convicted under subsection (2) the Court may order that person to return the child to –*

(a) *the applicant;*

(b) *the parent of the child;*

² Previously "shall within seven days"

³ Previously "shall within seven days"

⁴ Previously five years/

⁵ Previously "custody"

⁶ Previously \$5,000 & 6 months

(c) *the guardian; or*

(d) *the Authority.*

14. Where a person has made *an application* to the *Authority* to adopt a child and the *Authority* is of the opinion that the adoption of *that* child by that person would not be in the best interests of the child, the *Authority* shall notify the person accordingly.⁷

Notification by
Authority on
declining
application

14A. *A person referred to in sections 12(3)(b) and 14 may appeal from a decision of the Authority to a Judge of the High Court.*

Appeals

PART IV MAKING A CHILD AVAILABLE FOR ADOPTION

15. (1) Where a person makes an application to the *Authority to place a child for adoption* and the *Authority* accepts that application, the *Authority* shall apply to the Court for an order declaring that child *to be freed* for adoption.

Freeing child for
adoption

(2) Where a child in respect of whom an application is made under subsection (1) cannot be cared for prior to an adoption order being made, the *Authority* shall take *the* child into its care in accordance with the Children's *Authority Act and may place the child with a foster parent or in a community residence.*

(2A) *Where a child who has been in the care of the Authority, has been declared by the Court to be freed for adoption, the child shall remain in the care of the Authority, which may place the child with a foster parent or in a community residence until such time as the Authority places the child with suitable adopters.*

(3) Where on an application by the *Authority*, a Court is satisfied in the case of each parent or guardian of a child that—

- (a) he freely and with full understanding of what is involved consents to the making of an adoption order in respect of that child, or
- (b) his consent to the making of an adoption order should be dispensed with on a ground specified in section 24(2),

the Court shall make an order declaring the child available for adoption.

⁷ Appeals moved to 14A.

(4) No application shall be made under subsection (1) unless—

- (a) it is made with the consent of the parents or guardian of the child, or
- (b) the **Authority** is applying for dispensation under subsection (3)(b) of the consent of the parents or guardian of the child, and the child is in the care of the **Authority**.

(5) Consent by the mother of the child is ineffective for the purposes of this section if it is given less than six weeks after the child's birth.

(6) On the making of an order under this section, parental responsibility for the child becomes that of the **Authority**.

(7) Before making an order under this section, the **Court** shall satisfy itself in relation to the parent or guardian of the child that he has been given an opportunity to make a declaration that he prefers not to be involved in future questions concerning the adoption of the child and any such declaration shall be recorded by the **Court**.

16. (1) This section and section 25 apply to **a** former parent who was required to be given an opportunity of making a declaration under section 15(7) but did not do so.

Progress reports
to former parents

(2) Within 14 days following the period *of* 12 months after the making of the order under section 15, the **Authority**, unless it has previously by notice to the former parent informed him that an adoption order has been made in respect of the child, shall by notice to the former parent inform him—

- (a) whether or not an adoption order has been made in respect of the child; and, if not
- (b) whether the child has his home with a person with whom he has been placed for adoption.

(3) If at the time when the former parent is given notice under subsection (2) an adoption order has not been made in respect of the child it is thereafter the duty of the **Authority** to give notice to the former parent of the making of an adoption order (if and when made), and meanwhile to give the former parent notice whenever the child is placed for adoption or ceases to live with a person with whom he has been placed for adoption.

(3A) *Nothing in this section shall be construed as permitting the Authority to divulge to a former parent, any information except the notifications required under subsections (2) and (3).*

(4) If at any time the former parent by notice makes a declaration to the **Authority** that he prefers not to be involved in future questions concerning the adoption of the child, the **Authority** shall ensure that the declaration is recorded by the **Court** which made the order under section 15, whereupon the **Authority** is released from further complying with subsection (3) as respects that former parent.

17. (1) Where at any time more than twelve months after the making of an order under section 15—

Revocation of
order made
under section 15

- (a) no adoption order has been made in respect of the child; and
- (b) the child does not have his home with the person with whom he has been placed for adoption, the former parent may apply to the **Court** for an order revoking the order made under section 15 on the ground that he wishes to resume parental responsibility.

(2) Where such application is pending, the **Authority** shall not place the child for adoption without the leave of the **Court**.

(3) *Where the Court revokes an order* under section 15, *the Court may make such further order as it thinks fit, including an order—*

- (a) to extinguish the parental responsibility given to the **Authority** under that section;
- (b) to give parental responsibility *to the parent making the application; or*
- (c) to revive—
 - (i) any parental responsibility in respect of the child;
 - (ii) any order of the **Court** giving parental responsibility for the child to a person other than the parent; *or*
 - (iii) any appointment of a guardian in respect of the child, whether made by a **Court** or otherwise.

(4) Subject to subsection (5), if the application is dismissed on the ground that to allow it would not be in the best interest of the child—

- (a) the former parent who made the application shall not be entitled to make a further application under subsection (1) in respect of the child; and
- (b) the **Authority** is released from complying further with section 16(3) as respects that parent.

(5) Subsection (4)(a) shall not apply where the **Court** which dismissed the application gives leave to the former parent to make a further application under subsection (1), but such leave shall not be given unless it appears to the **Court** that because of a change in the circumstances or for any other reason it is proper to allow the application to be made.

PART V ADOPTION ORDERS

18. (1) Subject to this Act, upon an application for an adoption order made in the prescribed manner by any person whether resident or domiciled in Trinidad and Tobago or not, the **Court** may make an order authorizing the applicant to adopt a child. Power to make adoption orders

(2) Where an application for an adoption order is made by two spouses jointly, the **Court** may make the order authorizing the two spouses jointly to adopt, but save as aforesaid no adoption order shall be made authorizing more than one person to adopt a child.

19. (1) If on application for an adoption order the **Court** is of the opinion that a probationary period is desirable it shall have power to make an interim order to that effect not exceeding six months. Power to make interim orders

(2) All consents required for an adoption order shall be necessary for an interim order but subject to the power of the **Court** to dispense with such consents.

20. An adoption order may be made in respect of a child who has already been the subject of an adoption order, and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Act. Power to make subsequent order in respect of child already subject to an order

21. Where an application for an adoption order is made in respect of a child placed by the **Authority**, the **Authority** shall submit to the **Court**, a report on the suitability of the applicants and matters prescribed by section 10, and shall assist **Authority** Application where child placed by Authority

the Court in any manner the Court may direct.

22. Where an application for an adoption order is made in respect of a child, the Court shall, before making the order, take into consideration the views and wishes of the child having regard to the age and understanding of *the* child.

Consideration of views of the child

(Section 23 is repealed)

24. (1) An adoption order shall not be made—

Consent to the making of an order

(a) except with the consent of every person who—

- (i) is a parent or guardian of the child in respect of whom the application is made; or
- (ii) has the actual custody of the child;

(b) unless in the case of each person mentioned in subsection (1)(a) the Court is satisfied that—

- (i) that person freely and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants); or
- (ii) his consent to the making of the adoption order should be dispensed with on a ground specified in subsection (2).

(c) where an order has been made making the child available for adoption under section 15.

(2) *Notwithstanding subsection (1), the Court may make an adoption order where the Court finds that the parent-*

- (a) has abandoned, neglected, or deserted the child;
- (b) cannot be found or is incapable of giving consent;
- (c) is withholding his consent unreasonably;
- (d) has persistently failed without reasonable cause to discharge his parental responsibility to the child;
- (e) has persistently or seriously ill-treated the child;

- (f) being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support; or
- (g) is a person whose consent ought, in the opinion of the Court, to be dispensed with.

(3) An adoption order shall not be made upon the application of one of two spouses without the consent of the other ***unless they have separated and are living apart from each other and the separation is likely to be permanent.***

(4) The Court may dispense with the consent required by this section if it is satisfied that—

- (a) the person whose consent is to be dispensed with cannot be found or is incapable of giving consent;
- (b) the spouses have separated and are living apart and the separation is likely to be permanent.

(5) For the purposes of this section a child is abandoned, if ***in the opinion of the Court,*** the parent has failed to make contact with the child.

25. Before making an adoption order, the Court shall be satisfied that—

Matters with respect to which Court must be satisfied

- (a) the welfare and the best interest of the child will be promoted by the adoption, due consideration being for this purpose given to the wishes of the child having regard to the age and understanding of the child;
- (b) a person who is applying for the order is a fit person to have the custody of the child and of sufficient ability to ***raise*** , maintain and educate the child;
- (c) due consideration is given to the religious denominations of the child and adopters and to the wishes of the child, in relation thereto, having regard to the age and understanding of the child;
- (d) every person whose consent is necessary under this Act and whose consent is not dispensed with, has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of a parent, that that parent understands that the effect of the adoption order will be permanently to deprive him or her of parental rights; and
- (e) no person has received or agreed to receive, has made or given, or agreed to make or give to another, any payment or other reward in consideration of the adoption.

26. In making an adoption order the Court may impose such terms and conditions as the Court thinks fit, and in particular may require the adopter by bond or otherwise to make such provision, if any for the adopted child as in the opinion of the Court is just and expedient.

Terms and
condition of
orders

27. (1) Repealed by Act 9 of 2003

(2) The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules directing the manner in which applications to the Court may be made, for regulating appeals under section 14 and for dealing generally with all matters of procedure and incidental matters arising out of this Act.

Jurisdiction and
procedure

(3) *Proceedings in respect of an application to free a child for adoption or an application for an adoption order shall be held in camera and not generally published.*

28. It shall not be lawful for an adopter or for any person to receive payment or other reward in consideration of the adoption of a child under this Act or for a person to make or give or agree to make or give to an adopter or to a parent or guardian any payment or reward.

Restrictions on
payments

29. (1) Except with the written consent of the *Authority*, no advertisement shall be published indicating—

Prohibition on
Advertisement

(a) that the parent or guardian of a child desires to cause the child to be adopted; or

(b) that a person desires to adopt a child.

(2) No advertisement shall be published indicating that any person is willing to make arrangements for the adoption of a child.

(3) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section commits an offence and is liable on summary conviction to a fine of three thousand dollars and to imprisonment for six months.

30. (1) Where on the date of the coming into force of this Act—

Provisions as to
existing *de facto*
adoptions

(a) a child is in the custody of, and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under a *de facto* adoption; and

(b) has for a period of not less than two years before such commencement been in such custody,

the Court may, upon the application of such person or spouses, and on the recommendation of the **Authority** make an adoption order authorizing him, her or them to adopt the child without requiring the consent of any parent or guardian of the child.

(2) Before making an adoption order under this section the Court shall be satisfied after inquiry by the **Authority** that in all circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

PART VI REGISTRATION AND EFFECTS OF ADOPTION ORDERS

31. (1) The effect of an adoption order is to give parental responsibility for a child to the adopters.

The effect of
adoption orders

(2) An adoption order extinguishes—

(a) parental responsibility which any person had for the child immediately before the making of the order; and

(b) any duty arising by virtue of an agreement or an order of a Court to make payments in respect of the child's maintenance or upbringing for any period after the making of the order.

(3) Subsection (2)(b) does not apply to a duty arising by virtue of an agreement—

(a) which constitutes a trust; or

(b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.

32. (1) Upon an adoption order being made, the adopted child shall stand in relation to the adopter in the position of a child born to the adopter, and all rights accruing to, and all duties, obligations and liabilities incurred by the child shall

Rights and duties
of adopters

vest in and be exercisable by and enforceable against the adopter, as the case may be.

(2) Where two spouses are the adopters, the spouses shall, in respect of the matters mentioned in subsection (1) and for the purposes of jurisdiction of any Court to make orders relating to the custody and maintenance of and right of access to children, stand to each other and to the adopted child in the same relation as they would have stood if they had been the natural parents of the adopted child.

33. (1) The Registrar General shall establish and maintain at his office a register to be called the Adopted Children Register (hereinafter called “The Register”) in which shall be made such entries as may be directed to be made therein by an adoption order.

Adopted
Children
Register

(2) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register-

- (a) *an entry recording the adoption of the child ; and*
- (b) *an entry recording the birth of the child in which each adopter shall be recorded as the parent of the child,*

and the entries shall be in such forms as the Registrar General may approve.

(3) If, upon an application for an adoption order, it is proved to the satisfaction of the Court that—

- (a) the child was born on a particular date; and
- (b) the child is the same child to whom any entry in the Register of Births relates,

the adoption order shall contain a further direction to the Registrar General to cause the entry of the birth of the child in the Register of Births to be marked with the word “adopted”, and to *record in the entries referred to in subsection (2)*, the date of birth of the child, as stated in the adoption order.

(4) The prescribed officer of the Court shall cause every adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of such communication the Registrar General shall comply with the directions contained in the order in accordance with subsection 3 by making any entry in the Register.

(5) A certified copy of an entry in the Register *under subsection (2)(a)* purporting to be signed by the Registrar General shall, without any further or

other proof of such entry, where the entry contains a record of the date of the birth of the adopted child, be received as evidence of the adoption and of the date of birth of the adopted child⁸ to which the same relates in all respects as though it were a certified copy of an entry in the Register of Births.

(5A) A certified copy of an entry in the Register under subsection (2)(b) purporting to be signed by the Registrar General shall, without any further or other proof of such entry, be received as evidence of the date of birth of the child to which the same relates in all respects as though it were a certified copy of an entry in the Register of Births

(6) The Registrar General shall cause an index of the Register to be made and kept in his office, and *no*⁹ person *other than the adopter of a child or a person authorized in writing, for the purpose, by the adopter or by the Authority* shall be entitled to search such index and to have a certified copy of any entry in the Register in all respects upon, and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Births and Deaths Registration Act, or any other Act, in respect of searches in indexes relating to births and deaths kept in the office of the Registrar General.

(7) The Registrar General shall, in addition to the Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary, to record and make traceable the connection between any entry in the Register of Births which has been marked “adopted” pursuant to this Act and any corresponding entry in the Register, *and-*

- (a) those other registers and books shall not be open to public inspection or search;***
- (b) the Registrar General shall not, except under an order of the Court, furnish any person with any information contained in, or with any copy or extract from, those registers or books.***

(8) Regulations made by the Registrar General under the Births and Deaths Registration Act may make provision as to the duties to be performed by Superintendent Registrars and Registrars of Births and Deaths in the execution of this Act.

33A. Notwithstanding any other written law, where the Registrar General issues a certificate in respect of the birth of an adopted child, the certificate shall bear no overt indication that the child was adopted except such code as has been approved by the Registrar General to distinguish the type of entry which is being certified.

*Birth certificate
of adopted child*

⁸ “not only” and “but also” dropped

⁹ Previously “every person” had access.

33B. *Where the adopter of an adopted child or a person authorised in writing for the purpose by that adopter, applies to the Registrar General for the issue of a certified copy of an entry under section 33(2) in respect of that child and pays the prescribed fee, the Registrar General shall issue to that adopter or person the certified copy of the entry in the form approved by the Registrar General.*

Issuance of certificate of adoption

33C. (1) *Where an adopted person who is at least eighteen years of age applies to the Registrar General for a certified copy of an entry under section 33(2) in respect of his adoption,, and pays the prescribed fee, the Registrar General shall issue to him a certified copy of the entry in the form approved by the Registrar General.*

Application by adopted person for certificate of adoption

(2) *Where an adopted person who is under the age of eighteen years wishes to obtain a certified copy of an entry under section 33(2), he may apply to the Authority to act on his behalf.*

34. (1) An adopted person who is *at least* eighteen years of age and the record of whose birth is kept by the Registrar General, may make an application in the prescribed manner to the *Court*¹⁰ for such information as is necessary to enable that person to obtain a certified copy of the record of his birth as recorded in the Register of Births and Deaths.:

Disclosure of birth records of adopted children

(2) *On considering an application under subsection (1), the Court may-*

- (a)** *refer the applicant to the Authority for assistance with accessing counselling;*
- (b)** *direct the Registrar General to furnish the applicant with such information as the Court thinks fit.*

†

34A. (1) *An adopted person-*

- (a)** *whose birth record is kept by the Registrar General,*
- (b)** *who intends to get married; and*
- (c)** *who pays the prescribed fee;*

Application by adopted persons for certain information

may make an application in the prescribed manner to the-Registrar General-to

¹⁰ Previously the Registrar General

determine if the adopted person and the person they intend to marry are within the prohibited degrees of consanguinity or affinity for the purposes of the Marriage Act. .

(2) Where an application is made under subsection (1), the Registrar General may issue to the applicant, a written report indicating whether or not, from the information contained in the registers of birth or other records, the applicant and the person whom he intends to marry may be within the prohibited degrees of consanguinity or affinity for the purposes of the Marriage Act.

(3) Before supplying any information to an applicant under subsection (2) the Registrar General shall inform the applicant that he may access the Authority for assistance with counselling.

PART VII OVERSEAS ADOPTION

35. (1) Where a child is¹¹, the subject of adoption proceedings outside of Trinidad and Tobago, it shall not be lawful for any person to permit, cause or procure the care and possession of that child to be transferred to a person resident abroad who is not the *parent, step-parent*, guardian or relative of that child unless—

Restriction on sending child abroad for adoption

(a) an order has been made in respect of that child under section 36; or

(b) the requirements of the Emigration (Children) Act are satisfied.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

(3) In any proceedings under this section, a report made by a Trinidad and Tobago consular officer or a deposition made before him and authenticated under the signature of that officer shall, upon proof that the officer or deponent cannot be found in Trinidad and Tobago, be admissible in evidence in accordance with section 19 of the Evidence Act.

36. (1) The Court may make an order, subject to such conditions and restrictions as it thinks fit, authorising the care and control of a child for whom adoption arrangements have been made *or are likely to be made* to be transferred to a person resident abroad.

Order permitting child to be sent abroad for adoption

¹¹ “or may be” deleted

(2) Subject to this section, no such order shall be made unless the **Court** —

- (a) is satisfied that the application is made by or with the consent of every person or body who is a parent or guardian of the child referred to in subsection (1) or who has the custody of the child, or who is liable to contribute to the support of the child; and
- (b) is satisfied by a report of a Trinidad and Tobago Consular Officer or any other person who appears to the **Court** to be trustworthy that the person to whom the care and control of the child is proposed to be transferred is a suitable person to be entrusted therewith, and that the transfer is in the best interest of the child, due consideration being given for this purpose to the wishes of the child having regard to the age and understanding of the child.

(3) The **Court** may dispense with any consent required by subsection (2)(a) if it is satisfied that the person whose consent is to be dispensed with has abandoned or deserted the child or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the **Court** and in all the circumstances of the case, to be dispensed with.

(4) Where the **Court** makes an order under this section, the **Court** may authorise the making or receipt by any person of any payments in consideration of the transfer of the care and possession of the child in respect of whom the order is made.

37. Where a child has been adopted by a national *or resident* of Trinidad and Tobago, whether before or after the coming into force of this Act, in any place outside of Trinidad and Tobago according to the law of that place, then for the purposes of this Act and all other written law, the adoption shall have the same effect as an adoption order validly made in accordance with this Act.

Effect of overseas adoption

38. Where a person who is not a national *or resident* of Trinidad and Tobago and who lives outside of Trinidad and Tobago makes an application to the **Court** to adopt a child in Trinidad and Tobago, before granting an order the **Court** shall be satisfied that it is in the best interest of the child to grant that order.

Adoption by non-nationals

PART VIII MISCELLANEOUS

This consolidation has been prepared as an aid to reviewing the proposed amendments to the Act. It is not a definitive text and reference should always be made to the Act and any amending Act/Bill to confirm its accuracy – S.Daly, S.C.

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39. Any notice under this Act may be served by *registered* post. Serving of notices
40. (1) The Minister may make regulations— Regulations
- (a) for regulating the conduct of negotiations entered into, by or on behalf of the *Authority* with persons having the care and control of children and who are desirous of causing children to be adopted, and in particular for securing:
 - (i) that, where the parent or guardian of a child proposes to place the child at the disposition of the *Authority* with a view to the child being adopted, he shall be furnished with a memorandum in the prescribed form explaining in ordinary language the effect, in relation to his rights as a parent or guardian, of the making of an adoption order in respect of the child, and calling attention to this Act and any rules made hereunder relating to the consent of a parent or guardian to the making of such an order; and
 - (ii) that, before so placing the child at the disposition of the *Authority*, the parent or guardian shall sign a document in the prescribed form verifying that he has read and understood the said memorandum;
 - (b) for requiring that the case of every child proposed to be delivered by or on behalf of the *Authority* into the care and control of an adopter shall be considered by a committee (to be called a “case committee”) comprised of not less than three members of the *Authority*;
 - (c) for prescribing, in the case of every such child as aforesaid, the inquiries which must be made and the reports which must be obtained by the *Authority* in relation to the child and the adopter for the purpose of ensuring, so far as may be, the suitability of the child and the adopter respectively and, in particular, for requiring that a report on the health of the child and prospective adopter signed by a duly qualified medical practitioner must be obtained by the *Authority*;
 - (d) for securing that no such child shall be delivered into the care and control of an adopter by or on behalf of the *Authority* until—

- (i) the adopter has been interviewed by the case committee or by some suitably qualified social worker who has received training in or has worked in the area of adoption;
- (ii) a representative of the committee has inspected any premises in Trinidad and Tobago in which the adopter intends that the child should reside permanently; and
- (iii) the committee has considered the prescribed reports;
- (e) for making provision for the care and supervision of children who have been placed by their parents or guardians at the disposition of the *Authority*;
- (f) for prescribing anything which, save as is required to be prescribed under section 21, is required to be prescribed under this Act;
- (g) for carrying out the purposes of this Act.

(2) In any regulation under this section, the Minister may prescribe for any offence a penalty not exceeding a fine of ten thousand dollars or imprisonment for two years.

41. The Adoption of Children Act is repealed.

Repeal of Chap.
46:03

42. (1) Where any step has been taken by or under the authority of the Adoption Board or by a *Court* under the Adoption of Children Act, repealed by this Act, such step may be carried out and completed by the *Court* or under the authority of the *Authority* as though it were done under this Act.

Transitional
provisions

(2) Nothing in this Act shall affect- an adoption order made before the commencement of this Act.

(3) Any legal proceedings existing against the Adoption Board referred to in subsection (1) before the commencement of this Act, may be continued on and after the commencement of this Act. , against the Authority.

(Schedule is deleted)

Passed in the House of Representative this 27th day of September, 2000.

D. DOLLY

Acting Clerk of the House

Passed in the Senate this 3rd day of October, 2000

N. COX

Clerk of the Senate