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SAINT LUCIA

CHAPTER 4.07

ADOPTION ACT

Revised Edition

Showing the law as at 31 December 2001

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws-

ADOPTION ACT

Act 41 of 1953.. in force 8 May 1954

Amended by Act 8 of 1989 in force 28 October 1989

ADOPTION OF CHILDREN (HIGH COURT) RULES - Section 10 (copied separately)

Statutory Instrument 17/1954.. in force 8 May 1954

Amended by S.I. 22/1954

CHAPTER 4.07

ADOPTION ACT

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CHAPTER 4.07

ADOPTION ACT

(Acts 41 of 1953 and 8 of 1989)

AN ACT to make provision for the adoption of children.

Commencement [8 May 1954]

1. SHORT TITLE

This Act may be cited as the Adoption Act.

2. INTERPRETATION

In this Act, unless the context otherwise requires-

"abroad" means outside Saint Lucia;

"adoption order" has the meaning assigned to it by section 3 of this Act;

"Court" means the High Court;

"father" in relation to an illegitimate infant, means the natural father;

"infant" means a person under 18 years of age, but does not include a person who is or has been married; (*Amended by Act 8 of 1989*)

"interim order" means an order under section 8;

"prescribed" means prescribed by rules made under this Act;

"Registrar of Civil Status" means the Registrar of Civil Status appointed under section 4 of the Civil Status Act;

"relative", in relation to an infant, means a grandparent, brother, sister, uncle or aunt, whether of the full blood, of the half-blood or by affinity, and includes-

- (a) where an adoption order has been made in respect of the infant or any other person, any person who would be a relative of the infant within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock;
- (b) where the infant is illegitimate, the father of the infant and any person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of its mother and father;

"tutor" means a tutor appointed under the provisions of the Civil Code.

3. POWER TO MAKE ADOPTION ORDERS

- (1) Subject to the provisions of this Act, the Court may, upon an application made in the prescribed manner by a person who is a citizen of Saint Lucia or who is domiciled or has resided in Saint Lucia for at least 6 consecutive months prior to the date of the application make an order (in this Act referred to as an adoption order) authorising the applicant to adopt an infant. (*Amended by Act 8 of 1989*)
- (2) An adoption order may be made on the application of 2 spouses authorising them jointly to adopt an infant.
- (3) An adoption order may be made authorising the adoption of an infant by the mother or father of the infant, either alone or jointly with her or his spouse.

4. RESTRICTIONS ON MAKING ADOPTION ORDERS

- (1) An adoption order shall not be made in respect of an infant unless the applicant or, in the case of a joint application, one of the applicants-
 - (a) has attained the age of 25 and is at least 21 years older than the infant;
 - (b) has attained the age of 21 and is a relative of the infant; or
 - (c) is the mother or father of the infant.
- (2) An adoption order shall not be made in respect of an infant who is a female in favour of a sole applicant who is a male, unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.
- (3) Except as provided by section 3(2), an adoption order shall not be made authorising more than one person to adopt an infant.
- (4) Subject to the provisions of section 3, an adoption order shall not be made-
 - (a) in any case, except with the consent of every person who is a parent or tutor of the infant or who is liable by virtue of any order or agreement to contribute to the maintenance of the infant; and
 - (b) on the application of one of 2 spouses, except with the consent of the other spouse.
- (5) An adoption order shall not be made in Saint Lucia unless the applicant and the infant reside in Saint Lucia, except where the applicant is the father, mother, or relative of the infant or is a citizen of Saint Lucia.
- (6) An adoption order shall not be made in respect of any infant unless the

infant has been continuously in the care and possession of the applicant for at least 3 consecutive months immediately preceding the date of the order, except where the applicant is the father, mother or relative of the infant.

(Amended by Act 8 of 1989)

5. CONSENT TO ADOPTION

- (1) The Court may dispense with any consent required by section 4(4)(a) if it is satisfied-
 - (a) in the case of a parent or tutor of the infant, that he or she has abandoned, neglected or persistently ill-treated the infant;
 - (b) in the case of a person liable by virtue of an order or agreement to contribute to the maintenance of the infant, that he or she has persistently neglected or refused so to contribute; or
 - (c) in any case, that the person whose consent is required cannot be found or is incapable of giving his or her consent or that his or her consent is unreasonably withheld.
- (2) The Court may dispense with the consent of the spouse of an applicant for an adoption order if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving the consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.
- (3) The consent of any person to the making of an adoption order in pursuance of an application may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the infant is to be brought up) without knowing the identity of the applicant for the order; and where consent so given by any person is subsequently withdrawn on the ground only that he or she does not know the identity of the applicant, his or her consent shall be deemed for the purposes of this section to be unreasonably withheld.
- (4) While an application for an adoption order in respect of an infant is pending in any court, any parent or tutor of the infant who has signified his or her consent to the making of an adoption order in pursuance of the application shall not be entitled, except with the leave of the Court, to remove the infant from the care and possession of the applicant; and in considering whether to grant or refuse such leave the Court shall have regard to the welfare of the infant.

6. EVIDENCE OF CONSENT OF PARENT OR GUARDIAN

- (1) Where any person whose consent to the making of an adoption order is required by section 4(4)(a) does not attend in the proceedings for the purpose of giving it, then, subject to the provisions of subsection (3) a document signifying his or her consent to the making of such an order shall, if the person in whose favour the order is to be made is named in the document or (where the identity of that person is not known to the consenting party) is distinguished therein in a manner satisfactory to the Court, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings.
- (2) Where any such document is attested by a magistrate, notary royal or a justice of the peace (or, if executed outside Saint Lucia, by a judge or registrar of a court of record, a magistrate, a commissioner for oaths, a notary public or a British diplomatic or consular official), the document shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed; and for the purposes of this subsection, a document purporting to be attested as aforesaid shall be deemed to be so attested, and to be executed and attested on the date and at the place specified therein, unless the contrary is proved.
- (3) A document signifying the consent of the mother of an infant shall not be admissible under this section unless-
 - (a) the infant is at least 6 weeks old on the date of the execution of the document; and
 - (b) the document is attested on that date by a magistrate, notary royal or a justice of the peace, or if executed outside Saint Lucia, by a judge or registrar of a court of record, a magistrate, a commissioner for oaths, a notary public, or a British diplomatic or consular official.
- (4) For the purposes of this section, a document signifying a person's consent to the making of an adoption order shall include a licence issued abroad by virtue of which an infant is brought into Saint Lucia for adoption.

7. FUNCTIONS OF COURT AS TO ADOPTION ORDERS

- (1) The Court before making an adoption order shall be satisfied-
 - (a) that 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 any parent understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights;

- (b) that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant, having regard to the age and understanding of the infant; and
 - (c) that the applicant has not received or agreed to receive, and that no person has made or given or agreed to make or give to the applicant any payment or other reward in consideration of the adoption except such as the Court may sanction.
- (2) The Court in an adoption order may impose such terms and conditions as the Court may think fit, and in particular may require the adopter by bond or otherwise to make for the infant such provision (if any) as in the opinion of the Court is just and expedient.

8. INTERIM ORDERS

- (1) Subject to the provisions of this section, the Court may, upon any application for an adoption order, postpone the determination of the application and make an interim order giving the custody of the infant to the applicant for a period not exceeding 2 years by way of a probationary period upon such terms as regards provisions for the maintenance and education and supervision of the welfare of the infant and otherwise as the Court may think fit.
- (2) All such consents as are required to an adoption order shall be necessary to an interim order but subject to a like power on the part of the Court to dispense with any such consent.
- (3) An interim order shall not be made in any case where the making of an adoption order would be unlawful by virtue of section 4(6).
- (4) An interim order shall not be deemed to be an adoption order within the meaning of this Act.

9. PROVISIONS AS TO EXISTING DE FACTO ADOPTIONS

Where at the date of the commencement of this Act any infant is in the custody of, and being brought up, maintained and educated by any person or 2 spouses jointly as his, her or their own child under any *de facto* adoption, and has for a period of not less than 2 years before such commencement been in such custody, and been so brought up, maintained and educated, the Court may, upon the application of such person or spouses, and although the applicant is a male and the infant a female, make an adoption order authorising him, her or them to adopt the infant without requiring the consent of any parent or guardian of the infant to be obtained, upon being satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the infant that no such consent should be

required and that an adoption order should be made.

10. JURISDICTION, PROCEDURE AND RULES

- (1) An application for an adoption order shall be made to the Court.
- (2) The Governor General shall make rules in regard to any matter to be prescribed under this Act and dealing generally with all matters of procedure and incidental matters arising out of this Act and for carrying the same into effect.
- (3) Such rules may provide for application for adoption orders being heard and determined otherwise than in open Court.
- (4) For the purpose of any application for an adoption order, the Court shall, subject to any rules under this section, appoint some person to act as tutor of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the Court.

11. RIGHTS AND DUTIES OF PARENTS AND CAPACITY TO MARRY

- (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or tutors of the infant in relation to the future custody, maintenance and education of the infant, including all rights to appoint a tutor and to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as if the infant were a child born to the adopter in lawful wedlock; and in respect of the matters aforesaid (and, in respect of the liability of a child to maintain his or her parents under the provisions of the Civil Code) the infant shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.
- (2) In any case where 2 spouses are the adopters, the spouses shall in respect of the matters aforesaid, and for the purpose of the jurisdiction of any Court to make orders as to the custody and maintenance of and right of access to children, and in any other matter under the laws of Saint Lucia, stand to each other and to the infant in the same relation as they would have stood if they had been the lawful father and mother of the infant and the infant shall stand to them respectively in the same relation as to a lawful father and mother respectively.
- (3) For the purpose of the law relating to the marriage, an adopter and the person whom he or she has been authorised to adopt under an adoption order shall be deemed to be within the prohibited degrees of consanguinity; and the provisions of this subsection shall continue to have effect although

some person other than the adopter is authorised by a subsequent order to adopt the same infant.

12. AFFILIATION ORDERS

- (1) Where an adoption order is made in respect of an infant who is illegitimate, then, subject to the provisions of this section, any affiliation order or decree of affiliation and aliment in force with respect to the infant and any agreement whereby the father of the infant has undertaken to make payments specifically for the benefit of the infant, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the order, decree or agreement at the date of the adoption order.
- (2) Where an infant to whom any such order, decree or agreement as aforesaid relates is adopted by his or her mother, and the mother is a single woman, the order, decree or agreement shall not cease to have effect by virtue of the foregoing subsection upon the making of the adoption order, but shall cease to have effect if she subsequently marries.

13. INTESTACIES, WILLS, AND SETTLEMENTS

- (1) Where, at any time after the making of an adoption order, the adopter or the adopted person or any other person dies intestate in respect of any real or personal property, that property shall devolve in all respects as if the adopted person were the child of the adopter born in lawful wedlock and were not the child of any other person.
- (2) In any disposition of real or personal property made, whether by instrument *inter vivos* or by will (including codicil), after the date of an adoption order-
 - (a) any reference (expressed or implied) to the child or children of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to the adopted person;
 - (b) any reference (whether expressed or implied) to the child or children of the adopted person's natural parents or either of them shall, unless the contrary intention appears, be construed as not being or as not including, a reference to the adopted person; and
 - (c) any reference (whether expressed or implied) to a person related to the adopted person in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him or her in that degree if he or she were the child of the adopter born in lawful wedlock and were not the child of any other person.

- (3) Where an adopted child or the spouse or issue of an adopted child takes any interest in real or personal property under a disposition by the adopter, or where an adopter takes any interest in real or personal property under a disposition by an adopted child or the spouse or issue of an adopted child, any succession, legacy or other duty which becomes leviable in respect thereof shall be payable at the same rate as if the adopted child had been a child born to the adopter in lawful wedlock.

14. PROVISIONS SUPPLEMENTARY TO SECTION 13

- (1) For the purposes of the application of the articles in the Civil Code relating to successions, to the devolution of any property in accordance with the provisions of the last foregoing section, and for the purposes of the construction of any such disposition as is mentioned in that section, an adopted person shall be deemed to be related to any other person being the child or adopted child of the adopter or (in the case of a joint adoption) of either of the adopters-
 - (a) where he or she was adopted by 2 spouses jointly, and that other person is the child or adopted child of both of them, as brother or sister of the whole blood; and
 - (b) in any other case, as brother or sister of the half-blood.
- (2) Despite any rule of law, a disposition made by will or codicil executed before the date of an adoption order shall not be treated for the purposes of the last foregoing section as made after that date by reason only that the will or codicil is confirmed by a codicil executed after that date.
- (3) Despite anything in the last foregoing section, trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein and are not liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.
- (4) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of the last foregoing section in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order and in relation to any disposition of property made after that date.

15. ADOPTED CHILDREN REGISTER

- (1) The Registrar of Civil Status shall establish and maintain at his or her office a register, to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.
- (2) A certified copy of any entry in the Adopted Children Register, if purporting to be sealed or stamped with the seal of the Registrar of Civil Status, shall, without any further or other proof of that entry, be received as evidence of the adoption to which it relates and, where the entry contains a record of the date of the birth or the country of the birth of the adopted person, shall also be received as aforesaid as evidence of that date or country in all respects as if the copy were a certified copy of an entry in the Registers of Births.
- (3) The Registrar of Civil Status shall cause an index of the Adopted Children Register to be made and kept in his or her office; and every person shall be entitled to search that index and to have a certified copy of any entry in the Adopted Children 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 Civil Status Act in respect of searches in other indexes kept in his or her office and in respect of the supply from that office of certified copies of entries in the certified copies of the Registers of Births, Deaths and Marriages.
- (4) The Registrar of Civil Status shall, in addition to the Adopted Children 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 Registers of Births which has been marked "Adopted" under the next following section, and any corresponding entry in the Adopted Children Register; but the registers and books kept under this subsection shall not be, nor shall any index thereof be, open to public inspection or search, nor, except under an order of a Court of competent jurisdiction shall the Registrar of Civil Status furnish any person with any information contained in or with any copy of extract from any such registers or books.

16. REGISTRATION OF ADOPTIONS

- (1) Every adoption order made by the Court shall contain a direction to the Registrar of Civil Status to make in the Adopted Children Register an entry in the form set out in the Schedule, and (subject to the provisions of subsection (2)) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.

- (2) For the purposes of compliance with the requirements of subsection (1)-
 - (a) where the precise date of the infant's birth is not proved to the satisfaction of the Court, the Court shall determine the probable date of his or her birth and the date so determined shall be specified in the order as the date of his or her birth;
 - (b) where the name or surname which the infant is to bear after the adoption differs from his or her original name or surname, the new name or surname shall be specified in the order instead of the original;
 - (c) and where the country of birth of the infant is not proved to the satisfaction of the Court, the particulars of that country may, despite anything in that subsection, be omitted from the order and from the entry in the Adopted Children Register.
- (3) Where upon any application to the Court for an adoption order in respect of an infant (not being an infant who has previously been the subject of an adoption order made by the Court under this Act) there is proved to the satisfaction of the Court the identity of the infant with a child to whom an entry in the Registers of Birth relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar of Civil Status to cause the entry in the Registers of Births to be marked with the word "Adopted".
- (4) Where an adoption order is made by the Court in respect of an infant who has previously been the subject of an adoption order made by such Court under this Act, the order shall contain a direction to the Registrar of Civil Status to cause the previous entry in the Adopted Children Register to be marked with the word "Re-adopted".
- (5) Where an adoption order is made by the Court, the prescribed officer of the Court shall cause the order to be communicated in the prescribed manner to the Registrar of Civil Status, and upon receipt of such communication the Registrar of Civil Status shall cause compliance to be made with the directions contained in the order both in regard to marking any entry in the Registers of Births with the word "Adopted" and in regard to making the appropriate entry in the Adopted Children Register.

17. AMENDMENT OF ORDERS AND RECTIFICATION OF REGISTERS

- (1) The Court may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein; and where an adoption order is so amended, the prescribed officer of the Court shall cause the amendment to be communicated in the prescribed manner to the Registrar of Civil Status and any necessary

correction of an addition to the Adopted Children Register shall be made accordingly.

- (2) Where an adoption order is quashed or an appeal against an adoption order allowed, the Court which made the order shall give directions to the Registrar of Civil Status to cancel any marking of an entry in the Registers of Births or, as the case may be, in the Register of Births, and any entry in the Adopted Children Register, which was effected in pursuance of the order.
- (3) A copy or extract of an entry in any register, being an entry the marking of which is cancelled under this section, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

18. PROHIBITION OF CERTAIN PAYMENTS

- (1) It is not lawful for an adopter, or for a parent or tutor of an infant, to receive, except with the sanction of the Court, any payment or other reward in consideration of the adoption of the infant under this Act, or for any person to make or give or agree to make or give to an adopter, parent or tutor any payment or reward the receipt of which is prohibited by this subsection.
- (2) Subject to the provisions of the next following subsection, any person who makes arrangements for the adoption of an infant and receives or makes, or agrees to receive or make, any payment or reward whatsoever in connection with the making of the arrangements is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$5000 or to both.
- (3) The provisions of subsection (2) shall not apply-
 - (a) to any payments the making or receipt of which is sanctioned by the Court to which an application for an adoption order in respect of an infant is made;
 - (b) to any payments the making or receipt of which is authorised by a licensing authority under section 21(3).

19. RESTRICTION UPON ADVERTISEMENTS

- (1) It shall not be lawful for any advertisement to be published indicating-
 - (a) that the parent or tutor of an infant desires to cause the infant to be adopted;

- (b) that a person desires to adopt an infant; or
 - (c) that any person is willing to make arrangements for the adoption of an infant.
- (2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section is liable on summary conviction to a fine not exceeding \$2000. (*Amended by Act 8 of 1989*)

20. RESTRICTION ON SENDING INFANTS ABROAD FOR ADOPTION

- (1) It is not lawful for any person, in connection with any arrangements made for the adoption of an infant who is a citizen of Saint Lucia, to permit, or to cause or procure, the care and possession of the infant to be transferred to a person who is not a citizen of Saint Lucia or the tutor or a relative of the infant and who is resident abroad.
- (2) It is not lawful for any person, in connection with any such arrangements as aforesaid, to permit, or to cause or procure, the care and possession of such an infant as aforesaid, to be transferred to a person who is a citizen of Saint Lucia resident abroad and who is not the tutor or a relative of the infant, unless a licence has been granted in respect of the infant under the next following section.
- (3) Any person who contravenes the provisions of this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$5000 or to both.
- (4) In any proceedings under this section, a report by a public officer or a deposition made before a public officer and authenticated under the signature of that officer shall upon proof that the officer or deponent cannot be found in Saint Lucia be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.
- (5) For the purposes of this and the following section the expression "public officer" means a judge or registrar of a court of record, a magistrate, a commissioner for oaths, a notary public or a British diplomatic or consular official.

(Amended by Act 8 of 1989)

21. LICENCE TO SEND INFANT ABROAD FOR ADOPTION

- (1) A licensing authority within the meaning of this section may grant a licence in the prescribed form, and subject to such conditions and restrictions as the

licensing authority thinks fit, authorising the care and possession of an infant for whose adoption arrangements have been made to be transferred to a British subject resident abroad; but subject to the provisions of this section no such licence shall be granted unless the authority-

- (a) is satisfied that the application is made by or with the consent of every person who is a parent or tutor of the infant in question, or who has the actual custody of the infant, or who is liable to contribute to the support of the infant; and
 - (b) is satisfied by a report of a public officer that the person to whom the care and possession of the infant is proposed to be transferred is a suitable person to be entrusted with custody, and that the transfer is likely to be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant, having regard to the age and understanding of the infant.
- (2) The licensing authority may dispense with any consent required by subsection 2(a) if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the infant or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the infant, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the authority and in all the circumstances of the case, to be dispensed with.
 - (3) Where a licensing authority grants a licence under this section, the authority may authorise the making or receipt by any person of any payments in consideration of the transfer of the care and possession of the infant in respect of whom the licence is granted.
 - (4) The Chief Justice may make rules with respect to the application for and grant of licences under this section.
 - (5) If any proceedings under this section, a report by a public officer or a deposition made before a public officer and authenticated under the signature of that officer shall, upon proof that the officer or deponent cannot be found in Saint Lucia be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.
 - (6) For the purposes of this section, the licensing authority in Saint Lucia is the Court.

SCHEDULE

(Section 16)

FORM OF ENTRY IN ADOPTED CHILDREN REGISTER

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------|------------------------------------|---------------------------|--------------|---|---|---------------|---|
| No. of entry | Date and country of birth of child | Name and surname of child | Sex of child | Name and surname, address and occupation of adopter or adopters | Date of adoption order and description of court by which made | Date of entry | Signature of officer deputed by Registrar of Civil Status to attest the entry |
| | | | | | | | |

ADOPTION OF CHILDREN (HIGH COURT) RULES

ARRANGEMENT OF RULES

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