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THE ADOPTION OF CHILDREN ACT, 2000

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REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 67 of 2000

AN ACT to make provision for the regulation of procedures governing the adoption of children and to give effect to the International Convention on the Rights of the Child, 1990.

[Assented to 12th October, 2000]

Enactment

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

PART I
PRELIMINARY

Short title and commencement

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.

Interpretation

2. In this Act-

"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" means a place where children are cared for and shall include Children's Homes;

"cohabitant" has the meaning assigned to it under section 2 of the Cohabitation Relationship Act [No. 30 of 1998];

"court" means the High Court, or a court of summary jurisdiction where the contexts so permits;

"guardian", means a person with guardianship as defined in the Family Law (Guardianship of Minors, Domicile and Maintenance) Act [Chap. 46:08];

"medical practitioner" means a person registered under the Medical Board Act [Chap. 29:50];

"Minister" means the Minister to whom responsibility for Social and Community Development is assigned;

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

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

"the Authority" means the Children's Authority established under the Children's Authority Act.

PART II

THE ADOPTION BOARD

Establishment of Adoption Board

3. (1) An Adoption Board (hereinafter referred to as "the Board") is hereby established for the purpose of this Act, and is a body corporate.

(2) The Board shall consist of a Chairman and eight other members to be appointed by the Minister.

(3) Every appointment shall be for a term of three years, but may be revoked by the Minister for any reasonable cause before the expiration of that term.

(4) The quorum of the Board shall be four.

(5) The members appointed in accordance with subsection (2) shall include-

(a) a member of the Children's Authority;

(b) a medical practitioner;

(c) an attorney-at-law of at least five years standing admitted to practice in Trinidad and Tobago;

(d) a psychologist;

(e) a professional social worker;

(f) a person with any of the qualifications referred to in paragraphs (b) to (e) nominated by the Chief Secretary of the Tobago House of Assembly;

(g) a representative of an established Children's Residence as defined in the Children's Community Residences, Foster Care and Nurseries Act; and

(h) a representative of a non-governmental organization which has as its main objectives the promotion of the welfare and protection of children.

(6) The Chairman of the Board shall preside at all meetings of the Board.

(7) At a meeting of the Board from which the Chairman is absent, the members present shall appoint one of their number to act as Chairman of that meeting.

(8) The Chairman may at any time resign his office by letter addressed to the Minister.

(9) A member may at any time resign his office by letter addressed to the Chairman who shall cause it to be forwarded to the Minister.

(10) The appointment of a person as a member and the termination of office of a member whether by death, resignation, revocation, effluxion of time or otherwise shall be notified in the *Gazette*.

(11) If a member is unable to perform the functions of office owing to his absence from Trinidad and Tobago or for any other reason, the Minister may appoint another person to act as a temporary member during that period.

(12) Where a member of the Board is absent from three consecutive Meetings of the Board without the consent of the Chairman, the Minister may revoke his appointment.

Secretary

4. (1) The Board shall appoint a Secretary and shall determine the duties to be performed by the Secretary.

(2) The Secretary to the Board shall hold office for not more than five years but shall be eligible for re- appointment.

Representation of Board at adoption proceedings

5. A representative of the Board may appear in Court during the hearing of an application for an adoption order.

6. (1) There shall be a seal of the Board which shall Custody and use of be kept in the custody of the Chairman and may be seal affixed to instruments pursuant to a resolution of the Board in the presence of the Chairman and one other member and the Secretary.

(2) The seal of the Board shall be attested by the signature of the Chairman or the Secretary.

(3) All documents made by the Board, other than those required by law to be under seal, and all decisions of the Board may be signified under the hand of the Chairman or Secretary.

(4) Service upon the Board of a notice, order or other document shall be executed by delivering it, or sending it by registered post addressed to the Secretary at the office of the Board.

Procedures and meeting of the Board.

7. (1) The Board shall meet at least once a month and at such other times as may be necessary or expedient for the transaction of business.

(2) The meetings shall be held at a place and time to be determined by the Board.

(3) The Chairman may at any time call a special meeting of the Board within seven days of the receipt of a requisition for that purpose addressed to him by three members.

(4) The Secretary shall keep the minutes of each meeting in proper form.

(5) The Chairman shall certify a copy of the confirmed minutes at a subsequent meeting and forward it to the Minister.

(6) The Director of Family Services or his representative shall attend each meeting of the Board.

(7) The Board may co-opt one or more persons to attend a particular meeting of the Board for the purpose of assisting or advising the Board but a co-opted person shall not have the right to vote.

(8) Subject to this Act, the Board may regulate its own procedure.

Functions, powers and duties of the Board

8. (1) It shall be the duty of the Board to-

- (a) receive applications from parents, guardians, the Children's Authority and prospective adopters in respect of the adoption of children;
- (b) make such investigations concerning the adoption of children for the consideration of the Court as may be prescribed by regulations made under section 39(c);
- (c) co-operate with and assist the Children's Authority in matters relating to the adoption of children;
- (d) make recommendations to the court as to whether in its view the adoption is in the best interest of the child whose adoption is sought;
- (e) advise the Minister regarding adoption matters generally; and
- (f) listen to the views of the child.

PART III

ARRANGEMENTS FOR ADOPTION

Board to make adoption arrangements.

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

(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 Board 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 Adoption Board.

Duty to promote welfare of child

10. In making arrangements for the adoption of a child the Board shall-

- (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.

Board to have regard to religious upbringing of child

11. The Board shall, in placing a child with adopters, have regard so far as is practicable to the wishes of the child's parents or guardians as to the religious upbringing of the child.

Probationary period

12. (1) 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.

(2) The Board 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) the applicants are relatives of the child;
- (c) the child has been in the care and custody 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 Board is satisfied that it will be in the best interest of the child to do so.

(3) At any time during the probationary period the adopter may give notice in writing to the Board of his intention not to adopt the child or the Board may give the adopter notice in writing of the Board's decision not to allow the child to remain in the care of the adopter. The Board shall give reasons for its decisions to the adopter.

(4) Where the Board 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 Board under subsection (3), the Board shall within seven 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 upon which that period expired, apply to the court for an adoption order in respect of the child or shall give notice in writing to the Board 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 Board shall, within seven days 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.

Removal of child from custody of applicant

13. (1) Before an adoption order is made in respect of a child who has been in the care and custody of an applicant for five years preceding the application, no person shall remove that child from the custody of the applicant against the applicant's will except with the leave of the court or under any written law or on the arrest of the child.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for six months, and the court by which the offender is convicted may order the child to be returned to his parents or guardian or to the Board.

Appeals

14. Where a person has made representations to the Board to adopt a child and the Board is of the opinion that the adoption of the child by that person would not be in the best interests of the child, the Board shall notify the person accordingly and that person may appeal from the decision of the Board to a Judge of the High Court.

PART IV

MAKING A CHILD AVAILABLE FOR ADOPTION

Freeing child for adoption

15. (1) Where a person makes an application to the Board to adopt a child and the Board accepts that application the Board shall apply to the Court for an order declaring that child available 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 Board shall bring that child to the attention of the Authority and the Authority shall take that child into its care in accordance with the Children's Act.

(3) Where on an application by the Board, 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.

(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 Board 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.

Progress reports to former parents

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

(2) Within 14 days following the period 12 months after the making of the order under section 15, the Board, 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 Board 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.

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

Revocation of order made under section 15

17. (1) Where at any time more than twelve months after the making of an order 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 Board shall not place the child for adoption without the leave of the court.

(3) The revocation of an order made under section 15 operates-

- (a) to extinguish the parental responsibility given to the Authority under that section;
- (b) to give parental responsibility to-
 - (i) the parent making the application; and
 - (ii) where the child's mother and father were married at the time of his birth, to both parents; and
- (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;
 - (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 Board 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

Power to make 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.

(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.

Power to make interim orders

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.

(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.

Power to make subsequent order in respect of child already subject to an order

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.

Application where child placed by board

21. Where an application for an adoption order is made in respect of a child placed by the Board, the Board shall submit to the court, a report on the suitability of the applicants and matters prescribed by section 10, and shall assist the court in any manner the court may direct.

Application for order where child over 12 years

22. (1) 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 that child.

(2) In any proceedings under subsection (1) the court shall ensure that the child has legal

representation.

Restrictions on making adoption orders

- 23.** (1) An adoption order shall not be made in any case where -
- (a) (i) the applicant is under the age of twenty-five years; and
 - (ii) the applicant is less than twenty-one years older than the child in respect of whom the application is made; or
 - (b) the child has been or is married.
- (2) The court may, if it thinks fit, make an order where-
- (a) the applicant is less than twenty-five years of age if the applicant is the parent of the child; or
 - (b) the applicant is less than twenty-one years older than the child, if the applicant and the child are within the prohibited degrees of consanguinity, or if the application is made by or on behalf of two spouses jointly and the wife is the mother of the child or the husband is the father of the child.

Consent to the making of an order

- 24.** (1) An adoption order shall not be made-
- (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) The grounds specified for the purpose in subsection (1) are 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.

(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 deemed to have been abandoned if the parent has failed to make contact with the child for a period of at least six months.

Matters with respect to which court must be satisfied

25. Before making an adoption order, the court shall be satisfied that -

- (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 bring up, 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.

Terms and condition of orders

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.

Jurisdiction and procedure

27. (1) The court having jurisdiction to make adoption orders under this Act shall be the Family Court.

(2) The Rules Committee established by the Supreme Court of Judicature Act [Chap. 4:01] 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.

(3) The rules mentioned in subsection (2) may provide for applications for adoption orders to be

heard and determined otherwise than in open court.

Restrictions on payments

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.

Prohibition on Advertisement

29. (1) Except with the written consent of the Board, no advertisement shall be published indicating-

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

Provisions as to existing *de facto* adoptions

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

- (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 Board 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 Board 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

The effect of adoption orders

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

(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.

Rights and duties of adopters

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 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.

Adopted Children Register. Schedule

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.

(2) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register, an entry recording the adoption in the form set out in the Schedule.

(3) If upon an application for an adoption order there is proved to the satisfaction of the court-

(a) the date of the birth of the child; and

(b) the identity of the child is the same to which 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 such birth in the Register of Births to be marked with the word "adopted", and to include in the entry in the Register recording the adoption, the date stated in the order of the adopted child's birth in the manner indicated in the Schedule.

(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 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 not only as evidence of the adoption but also as evidence of the date of the birth of the adopted 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 every person 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 [**Chap. 44:01**], 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.

(8) Regulations made by the Registrar General under the Births and Deaths Registration Act [**Chap. 44:01**] 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.

Disclosure of birth records of adopted children

34. (1) An adopted person who is eighteen years old and the record of whose birth is kept by the Registrar General, may make an application in the prescribed manner to the Registrar General 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 and the Registrar General shall, on payment of the prescribed fee by the applicant, supply to the applicant that information.

(2) An adopted person under the age of eighteen years whose birth record is kept by the Registrar General, and who intends to be married may make an application in the prescribed manner to the Registrar General, and on payment of the prescribed fee, the Registrar General shall inform the applicant whether or not it appears from the information contained in the registers of births or other records that the applicant and the person whom he intends to marry may be within the prohibited degrees of relationship for the purposes of the Marriage Act [**Chap. 45:01**].

(3) Before supplying any information to an applicant under this section, the Registrar General shall inform the applicant that counselling services are available to him at the Family Services Division of the Ministry.

PART VII

OVERSEAS ADOPTION

Restriction on sending child abroad for adoption

35. (1) Where a child is, or may be 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 guardian or relative of that child unless-

- (a) an order has been made in respect of that child under section 36; or
- (b) the requirements of the Emigration (Children) Act [**Chap. 18:02**] 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 [Chap. 7:02].

Order permitting child to be sent abroad for adoption

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 to be transferred to a person resident abroad.

(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.

Effect of overseas adoption

37. Where a child has been adopted by a national 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.

Adoption by non-nationals

38. Where a person who is not a national 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 all attempts to secure adoption by applicants who are nationals of Trinidad and Tobago have failed, and it is in the best interest of the child to grant that order.

PART VIII

MISCELLANEOUS

Serving of notices

39. Any notice under this Act may be served by post.

Regulations

40. (1) The Minister may make regulations-

- (a) for regulating the conduct of negotiations entered into, by or on behalf of the Board 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 Board 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 Board, 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 Board 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 Board;
 - (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 Board 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 Board;
 - (d) for securing that no such child shall be delivered into the care and control of an adopter by or on behalf of the Board 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 Board;
 - (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 year.

Repeal of Chap. 6:03

41. The Adoption of Children Act is repealed.

Transitional provisions

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 Board as though it were done under this Act.

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

SCHEDULE

Section 33(2)

[illegible]

Passed in the House of Representatives 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