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| Country Code:             | TT 2006 Rev. CAP. 11:18                                                                                                                                                                      |
| Title:                    | CHILDREN'S AUTHORITY ACT                                                                                                                                                                     |
| Country:                  | TRINIDAD AND TOBAGO                                                                                                                                                                          |
| Date of entry into force: | December 5, 2008 (Certain sections) (187/2008)                                                                                                                                               |
| Amendment:                | 8/2003; 14/2008                                                                                                                                                                              |
| Subject:                  | Children – Law – Trinidad & Tobago                                                                                                                                                           |
| Key words:                | Child, meaning of; Child Assessment Order; Child welfare; Community Service, meaning of; Emergency Protection Order; Family Court; Paternity; Young person, meaning of; Wardship of children |
| Notes:                    | Children's Authority (Amendment) Act 8/2003 and 14/2008 attached.                                                                                                                            |

REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 64 of 2000**

AN ACT to establish a Children's Authority of Trinidad and Tobago to act as the guardian of the children of Trinidad and Tobago.

*[Assented to 2nd November, 2000]*

**Preamble**

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution, and if any Act does so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one of the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all members of the House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

**Enactment**

ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the Children's Authority Act, 2000.

**Commencement**

2. This Act comes into operation on a day fixed by the President by Proclamation.

**Interpretation**

3. In this Act, unless the context otherwise requires-

"Assumption Order" means an order of the Court made under section 25 affirming the undertaking by the Authority of the responsibility for the care and control of a child under section 23(1);

"Authority" means the Children's Authority established under section 4;

"child" means a person under the age of eighteen years;

"Children's Home" means a residence for the care and rehabilitation of children;

"Community Service" has the meaning assigned to it by the Community Service Orders Act, 1997 [**Act No. 19 of 1997**];

"Court" means the Family Court established under the Family Court Act, 1999;

"fit person" has the meaning given to it by the Children's Act [**Chap. 36:01**];

"foster care" means the assuming of temporary care, maintenance and parental obligations by an approved foster parent in respect of a child under Part IV of the Children's Community Residences, Foster Homes and Nurseries Act;

"guardian" includes a person appointed by a will or by order of a Court to be the guardian of a child, or who in the opinion of the court has the charge of or control over a child;

"Minister" means the Minister to whom responsibility for the welfare of children is assigned;

"Rehabilitation Centre" means a residence for the rehabilitation of youthful offenders, in which youthful offenders are lodged, clothed, and fed as well as taught;

"Community Residence" includes a Children's Home or Rehabilitation Center licenced under the Children's Community Residences, Foster Homes and Nurseries Act;

"relative" includes a parent, step-parent, grand-parent, brother, sister, uncle or aunt;

"temporary assumption" the undertaking by the Authority of the temporary responsibility for the care and control of a child under section 23(1);

"youthful offender" means a child who is charged with committing an offence; and

"young person" means a child over the age of fourteen years and under the age of eighteen years.

## **PART II**

### **ESTABLISHMENT OF THE CHILDREN'S AUTHORITY**

#### **Establishment of children's Authority**

**4.** There is hereby established a body Corporate to be known as the Children's Authority of Trinidad and Tobago (hereinafter referred to as "the Authority").

#### **Powers and functions of Authority**

**5.** The Authority may have and exercise such powers, functions and duties as are imposed on it by this Act and in particular-

- (a) advise the Minister on matters relating to the operation of this Act;
- (b) monitor community residences, foster homes and nurseries and conduct periodic reviews to determine their compliance with such requirements as may be prescribed;
- (c) investigate complaints of
  - (i) staff;
  - (ii) children; and
  - (iii) parents or guardians of children,

with respect to any child who is in the care of a community residence, foster home or nursery, of the community residence's, foster home's or nursery's failure to comply with requisite standards as prescribed under the Children Community Residences, Foster Homes and Nurseries Act, and any incidences of mistreatment of children in such places;

- (d) issue, revoke and withdraw licences of community residences and nurseries as provided under the Children Residences, Foster Care and Nurseries Act;
- (e) monitor agencies which address children's issues;
- (f) investigate complaints or reports of mistreatment of children in their homes;
- (g) act as an advocate for the rights of all children in Trinidad and Tobago; and
- (h) do all such things as may be necessary or expedient for the proper performance of its duties.

**5A.** (1) The Authority shall be the Central Authority for the purposes of the Hague Convention of the Civil Aspects of International Children Abduction.

(2) The Authority's duties as the Central Authority under subsection (1) shall include:

- (a) discovering the whereabouts of the child who has been wrongfully removed or retained;
- (b) preventing further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) securing the voluntary return of the child or the bringing about of an amicable resolution of the issues;
- (d) exchanging where desirable, information relating to the social background of the child;
- (e) assisting the judicial system/institution with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (f) where the circumstances so require, to provide or facilitate the provisions of legal aid and advice, including the participation of legal counsel and advisers;
- (g) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child; and
- (h) to do all such things that are required of the Central Authority under the Hague Convention on the Civil Aspects of International Child Abduction.

### **General duty of the Authority**

**6.** (1) It shall be the duty of the Authority to-

- (a) exercise such powers as are conferred on it by this Act and as may be necessary with respect to any child so as to further, in its opinion, the best interests of that child, including reuniting the child with his relatives at the earliest opportunity; and
- (b) make such use of facilities and services available for children that are provided by other agencies or institutions, as appears reasonably necessary to the Authority.

(2) When determining what is in the best interest of a child the Authority shall take into consideration-

- (a) the love, affection, and other emotional ties existing between the parties involved and the

- child;
- (b) the capacity and disposition of the parties involved to-
    - (i) give the child love, affection and guidance and to continue the education and raising of the child in his or her religion or creed, if any; and
    - (ii) provide the child with food, clothing, medical care or other remedial care recognised and permitted under the laws of Trinidad and Tobago;
  - (c) the length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining the status quo;
  - (d) the permanence of the family unit;
  - (e) the home, school and community record of the child;
  - (f) the willingness and ability of each parent to facilitate and encourage a close parent-child relationship between the child and other parent or the child and the parents;
  - (g) the willingness and ability of relatives to facilitate and encourage familial relationships between the child and other family members;
  - (h) domestic violence, regardless of whether the violence was directed against or witnessed by the child;
  - (i) the reasonable preference of the child, if the Authority considers the child to be an age and maturity to express such preference; and
  - (j) any other factor that the Authority may consider relevant to the particular child.

### **Board of Management**

7. (1) The Authority shall be managed by a Board of Management (hereinafter referred to as the "Board") which will be in charge of the administration of the Act.

(2) The Board shall consist of eleven persons appointed by the President as follows:

- (a) a child psychologist;
- (b) a child psychiatrist;
- (c) a qualified social worker;
- (d) a public health specialist;
- (e) an educator;
- (f) an accountant;
- (g) an attorney-at-law of not less than five years standing;
- (h) a person under the age of twenty five years, representing the youth;
- (i) a person nominated by the Tobago House of Assembly; and
- (j) a police officer above the rank of inspector who has experience in children issues and is nominated by the Commissioner of Police; and
- (k) a representative of a Non-Governmental Organisation which has as its objectives the promotion of the welfare and protection of children.

(3) The President shall appoint from among the persons mentioned in subsection (2), one

member to be the Chairman of the Board.

(4) A member of the Board shall hold office for such period as stated in his instrument of appointment and shall be eligible for re-appointment.

(5) The Board at its first meeting shall, subject to the approval of the Minister, select from among its members a Deputy Chairman.

(6) A member of the Board may at any time, resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause it to be forwarded to the Minister, and the Chairman may resign his office by instrument in writing addressed to the Minister.

(7) The President may terminate the appointment of a member of the Board where the member-

- (a) is of unsound mind or is incapable of carrying on his duties;
- (b) becomes bankrupt or compounds with his creditors;
- (c) is convicted of any offence which brings his office into disrepute;
- (d) is guilty of misconduct in relation to his duties;
- (e) is absent, except on leave granted by the Board, during two consecutive meetings of the Board; or
- (f) fails to carry out any of the duties or functions conferred on or assigned to him under this Act.

(8) The names of the members of the Board as constituted under this Act and every change thereof, shall be published in the *Gazette*.

(9) The Board shall meet as often as required, but must meet at least once a month.

(10) The quorum for a meeting of the Board shall be seven.

(11) The Board may by way of rules or resolutions regulate its own procedure for the conduct of its business.

### **Custody and use of seal**

8. (1) The Authority shall have a Seal which shall be kept in the custody of the Chairman or Deputy Chairman.

(2) The Seal of the Authority shall be affixed to an instrument in the presence of the Chairman, or in his absence the Deputy Chairman and shall be attested by the Chairman, or the Deputy Chairman as the case may be.

(3) All documents, other than those required by law to be under seal, and all decisions of the Authority may be signified under the hand of the Chairman, or in his absence the Deputy Chairman.

### **Service**

9. Service upon the Authority, of any Notice, Order or other document shall be effected by delivering the same, or by sending it by registered post addressed to the Chairman, at the office of the Authority.

### **Appointment and responsibilities of the Director**

**10.** (1) Subject to section 7, the Board shall appoint a Director who shall be responsible for the day to day functions of the Authority who shall, also be the co-ordinator of all the units created in section 11.

(2) The Board may delegate any of its functions to the Director.

### **Composition of the Authority**

**11.** For the effective management of its duties and functions the Authority shall have the following units:

- (a) Co-ordinating Unit;
- (b) Administrative Unit;
- (c) Technical Unit;
- (d) the Research Unit; and
- (e) any other unit which the Authority determines is necessary for its effective functioning.

### **Functions of the Co-ordinating Unit**

**12.** The Co-ordinating Unit shall include qualified social workers professionally trained in child care and shall-

- (a) be responsible for the co-ordination and monitoring of all services provided by the Authority;
- (b) monitor all matters referred by the Technical Unit; and
- (c) be the direct link to the Court in respect of children who have come before the Court.

### **Administrative Unit**

**13.** The Administrative Unit shall include qualified social workers and shall be responsible for:

- (a) the registration and licensing of all children's homes rehabilitation centres, foster homes and nurseries;
- (b) the monitoring of all children's homes, rehabilitation centres, foster homes, nurseries, agencies addressing children's issues and other children who have been referred to it;
- (c) the establishment and maintenance of a register of children with problems as may be identified from time to time by the Authority;
- (d) the establishment and maintenance of a register of all children placed in Children's Homes and Rehabilitation and Foster Homes; and
- (e) the financial management, human resource management and public relations of the Authority.

### **Technical Unit**

**14.** (1) The Technical Unit shall comprise the Intake Center and the Reception Center.

(2) The Intake Center shall be responsible for-

- (a) the intake and referral of cases coming before the Authority;
- (b) receiving children who are to remain in the care of the Authority; and
- (c) where necessary, shall liaise with support services and agencies for counseling, investigations and follow up,

and shall be staffed will qualified social workers specializing in child care.

(3) The Reception Center shall be responsible for the temporary care of children received by the Authority.

(4) The Reception Center shall be staffed with qualified social workers, a child psychologist, medical and other qualified personnel, including a child psychiatrist who shall-

- (a) carry out initial medical examinations, diagnostic assessments and formulate treatment plans;
- (b) make recommendations to the Board on the child's placement; and
- (c) implement plans in respect of any child in the care of the Reception Center.

(5) The Reception Center may source any support services it may require with respect to any child referred by the Intake Center.

(6) A child received by the Authority shall not remain in the Reception Center for a period exceeding six weeks.

#### **Research Unit**

15. The Research Unit shall be responsible for statistical data collection, research and analysis of such data.

#### **Staff of the Authority**

16. The Authority shall appoint on such terms and conditions as it thinks fit and subject to such maximum limits of remuneration as the Minister may determine, such staff as it considers necessary for the efficient exercise and performance of its functions under this Act.

#### **Transfer on secondment**

17. (1) Subject to subsection (2) and to the approval of the Authority, the appropriate Service Commission and the officer, any officer in the public service may be transferred on secondment to the service of the Authority or from the service of the Authority to the public service.

(2) Where a transfer on secondment referred to in subsection (1) is effected, arrangements shall be made to preserve the rights of the officers so transferred to any pension, gratuity or other allowance for which he would have been eligible had he remained in the service of the Government or of the Authority, as the case may be.

(3) A period of transfer on secondment shall not in any case exceed three years.

#### **Transfer of officers of Government to the Authority**

18. Subject to the approval of the Authority, the appropriate Service Commission and the officer, an

officer in the public service and upon transfer to the Authority shall become a member of any pension scheme operated, for the benefit of employees of the Authority.

### **Pension rights and schemes**

**19.** (1) The Authority shall provide for the establishment and maintenance of pension schemes or arrange for membership in a scheme for its employees upon terms to be agreed upon between the Authority and the recognised representative association or trade union.

(2) Without prejudice to subsection (1), the Authority may, under a pension scheme-

- (a) establish a contributory superannuation scheme and establish and contribute to superannuation funds for the benefit of its employees;
- (b) grant gratuities, pensions or superannuation allowances to the surviving spouse, families or dependents of its employees;
- (c) enter into and carry into effect, arrangements with any insurance company or other association or company for securing for any employee or surviving spouse or dependant, such gratuities, pensions or allowances authorised by this section;
- (d) give donations or subscriptions to charitable institutions, benevolent funds and other object calculated to benefit its employees.

### **Employment of persons for specific tasks**

**20.** The Authority may employ, on such terms and conditions as it thinks fit and subject to such maximum limits of remuneration as the Minister may determine, persons to perform specific tasks that the Authority considers necessary for the due performance of its functions under this Act.

### **Authority subject to directions of the Minister**

**21.** The Minister may give in writing general or special directions to the Board, on policy matters, in the exercise of its duties and powers under the Act.

## **PART III**

### **CHILDREN IN NEED OF CARE AND PROTECTION**

#### **Power of Authority to provide for children**

**22.** (1) Where it appears to the Authority that a child-

- (a) has neither parent nor guardian who is fit to exercise care and guardianship;
- (b) is lost or has been and remains abandoned by his parents or guardians;
- (c) whose parents or guardian are prevented by-
  - (i) reason of mental or bodily disease;
  - (ii) infirmity or other incapacity; or

(iii) any other circumstances,

from providing for his up-bringing, and there is no available person or persons capable, fit or willing to undertake the care of such child;

(d) is exposed to moral danger;

(e) is beyond the control of his parents or guardians;

(f) is ill-treated or neglected in a manner likely to cause him suffering or injury to health;

(g) is destitute, or is wandering without any settled place of abode and without visible means of subsistence;

(h) is begging or receiving alms; or

(i) is found loitering for the purpose of begging or receiving alms,

and that the intervention of the Authority is necessary in the best interests of the child, it shall investigate the matter and it shall be lawful where appropriate for the Authority to receive the child, into its care.

(2) A police officer or any other person having reasonable grounds for believing that a child is in need of care or protection may seek the assistance of the Authority for care or protection of such child.

(3) In this section a child is deemed to be abandoned where he has no parents or other persons willing and able to take care of him.

### **Temporary assumption of parental rights by the Authority**

**23.** (1) Subject to the provisions of this Part, where the Authority receives a child into its care under section 22, it shall temporarily assume the care and control of that child (the assumption) and all the rights and powers of the parents or guardians shall temporarily vest in the Authority.

(2) The Authority shall for the purposes of obtaining an Order under section 25, bring before Court any child, received by it under section 22, within fourteen days of such reception, unless it is satisfied that the taking of proceedings is not, in its opinion, in the best interest of the child, or that proceedings are about to be taken by some other person.

(3) In satisfying itself pursuant to subsection (2) the Authority shall take into consideration the same items listed in section 6(2).

### **Notice of temporary assumption**

**24.** (1) Where the whereabouts of the parent or guardian of the child are known and they have not previously consented to the temporary assumption by the Authority, the Authority shall, within forty-eight hours upon receipt of the said child, serve on the parent or guardian, notice in writing of the temporary assumption thereof and every such notice shall inform the person on whom the notice is served of his right to object to the temporary assumption and the effect of any objection made by him.

(2) Where the person on whom a notice of temporary assumption is served under subsection (1), wishes to object to such assumption he shall serve on the Authority, within seven days of his receipt of such notice, a notice of objection stating the grounds of his objection.

(3) A notice under subsection (1), shall be effected by personal service.

(4) Where a notice of objection has been served on the Authority under subsection (2), the Authority shall notify the Court of any Notice of objection and the Court on hearing the objector, if satisfied that the temporary assumption should in the best interest of the child be affirmed or determined

affirm or determine the said assumption and in the case of termination the temporary assumption shall thereupon cease to have effect.

### **Powers of Court in respect of children in need of care and protection**

**25.** (1) Where the Court is satisfied that a child brought before it by the Authority is a child in need of care and protection, it shall affirm the assumption made under section 23 and may make-

(a) an Order-

- (i) directing that the child be sent to a residence;
- (ii) committing him to the care of a fit person under the Children's Act who is willing to undertake the care of him;
- (iii) directing his parent or guardian to enter into a recognisance to exercise proper care and guardianship;
- (iv) placing him for a specified period, not exceeding three years, under the supervision of the Authority;
- (v) directing that the child be placed in foster care; or
- (vi) freeing that child for adoption.

(b) any other order as the Court thinks fit.

(2) An order made under subsection (1)(a)(iv) placing a child under the supervision of the Authority, may require the Authority to comply during the whole or any part of the period specified in the Order with such requirements as the Court, having regard to the circumstances of the case, considers necessary for the care and protection of the child and, without prejudice to the generality of this subsection, such order may include requirements relating to the residence of the child.

### **Restrictions on assumption**

**26.** An assumption shall not-

- (a) be construed as terminating the rights of parents in respect of their children;
- (b) relieve any person from any liability to maintain or contribute to the maintenance of the child; or
- (c) authorize the Authority to cause a child to be brought up in any religion other than that in which the child would have been brought up by a parent.

### **Care of the child be given to parent**

**27.** Subject to the determination by the Court under sections 24(4) and 25, the Authority may, where it appears to be in the best interest of the child to do so, allow the physical care of the child to be taken over by a guardian, relative, friend or any other person, for such period as the Authority may determine.

### **Offence to assist runaway**

**28.** Any person who knowingly-

- (a) and without good cause prevents a child from returning to the place from which he has

run away;

(b) assists or induces or attempts to induce a child to whom sections 22 through 25 applies to run away from the care of the Authority; or

(c) harbours or conceals a child who has run away from the care of the Authority,

commits an offence and shall on summary conviction be liable to a fine not exceeding one thousand five hundred dollars, to do Community Service or imprisonment for a term of six months.

### **Application of preceding provisions to children already subject to orders of the Court**

**29.** The reception of a child into care by the Authority under section 22 and the making of an Assumption Order with respect to that child under sections 24(4) and 25 shall not affect any supervision order or probation order previously made by the Court with respect to that child.

### **Children certifiable as mental patients**

**30.** (1) Where an assumption has been made under sections 24(4) and 25 with respect any child and subsequently that child is determined mentally ill, under the Mental Health Act [**Chap. 28.02**], such determination resulting in the admission of the child to a psychiatric hospital, the Authority shall continue to exercise parental responsibility and rights in respect of that child notwithstanding the Authority does not have physical control of the child.

(2) Where a child mentioned under subsection (1) is under the care of a psychiatric hospital, the Psychiatric Hospital Director of the institution shall submit to the Authority, periodical reports of the child's mental status.

### **Parents to inform the Authority of their whereabouts**

**31.** (1) The parent or guardian of a child in the care of the Authority shall ensure that the Authority is informed of the whereabouts of the parent or guardian.

(2) A parent or guardian who knowingly fails to comply with subsection (1), commits an offence and on summary conviction shall be liable to a fine of five hundred dollars.

### **Leaving the country without proper arrangements**

**32.** (1) Where the Authority is satisfied that a person legally liable for the care and maintenance of any child intends to leave Trinidad and Tobago without making adequate arrangements for the care of the child, it may object to the Chief Immigration Officer to such person leaving Trinidad and Tobago until such person has made provision to the satisfaction of the Authority that-

(a) the child is not likely to become a charge on the public funds; or

(b) such child is not exposed to moral danger or neglect by reason of lack of care and maintenance.

(2) The Chief Immigration Officer on receipt of such objection may, refuse to permit the person to leave Trinidad and Tobago.

(3) Where at any time reasons for an objection no longer exist the Authority shall advise the Chief Immigration Officer and the person referred to in subsection (1) accordingly.

(4) A person aggrieved by the decision of the Chief Immigration Officer may appeal to the Minister against such decision and he may either confirm or revoke the said decision.

### **Power of the Court with respect to offences in the Schedule**

**33.** (1) Any Court before which a person is charged for having committed an offence in respect of a child mentioned in the Schedule or any offence under this Act, may direct that the child be brought before the Court with a view to making an order, under section 25.

(2) Where the Court has, under subsection (1), directed that a child be brought before the Court, it shall be the duty of the Authority to make every effort to bring such child before Court whether the child is in the custody of the Authority or not.

(3) The Minister may by Order amend the Schedule.

## **PART IV**

### **CARE OF CHILDREN UNDER THE AUTHORITY**

#### **Provision of accommodation**

**34.** (1) The Authority may support or provide, equip and maintain community residences for the accommodation of children in its care.

(2) The Authority may discharge its functions under this section by making arrangements with private bodies for the accommodation of children in its care as provided for under the Children's Community Residences, Foster Homes and Nurseries Act.

#### **Provision of hostels for children who are over sixteen**

**35.** (1) The Authority shall ensure that children who are over sixteen years and who have no other place to reside, be accommodated in hostels near the place, as far as possible, where they may be employed, or seeking employment or receiving education or training.

(2) In this part "hostel" means a voluntary residence for persons up to the age of 21, on payment of a fee.

#### **Land for site for residences**

**35A.** (1) The President may convey, lease, or otherwise assure land of the site of a Community Residence to be established under this Act to such persons and managers, upon such terms and subject to such conditions and stipulations relative to reconveyance, forfeiture, and resumption of such land or otherwise as to him shall seem fit.

(2) Upon the withdrawal of any licence for a Children's Community Residence as provided for under the Children's Community Residences, Foster Homes and Nurseries Act, in respect of land referred to in subsection (1), the President or any person authorised by him may make entry upon and resume possession of all lands which may have been conveyed, leased or otherwise assured to any person under this section, and all buildings and erections thereon.

(3) The entry upon and resumption of any such lands and buildings by the President or any person so authorised by him under subsection (1) shall operate as a reconveyance or surrender thereof, as

the case may be, to the State by the person to whom the same shall have been conveyed, leased, or otherwise assured; and such lands and buildings shall from to time onward become absolutely vested in the State.

### **Power of the Authority to arrange for the emigration of children in its care**

**36.** (1) The Authority may, with the consent of the Minister, procure or assist in procuring emigration for any child in its care.

(2) The Minister shall not give his consent under this section unless he is satisfied that-

- (a) emigration would benefit the child;
- (b) suitable arrangements have been or will be made for the child's reception;
- (c) proper arrangements for the child's welfare in the country to which he is going has been made;
- (d) the parents or guardians of the child have been consulted; and
- (e) that the child consents.

(3) In any case where the child, is accompanied by a parent, guardian or relative or is to emigrate for the purpose of joining a parent, guardian, relative or friend, but is too young to form or express an opinion, the Minister may consent to his emigration, notwithstanding that the said child is unable to consent.

### **Disposal of deceased children**

**37.** (1) Where a child who is under the care of the Authority, has been placed in a community residence or foster home and that child dies while resident at such place, the Manager of the community residence or foster parent shall inform the Authority forthwith of the child's death.

(2) It shall be the duty of the Authority-

- (a) to immediately inform the parents and relatives of the deceased child of that child's death;
- (b) where the parents or relatives of the deceased child wish to bury the child, to release the child's body to them for burial; and
- (c) where no such wish referred to in paragraph (b) is expressed, to dispose of the body of any deceased child who immediately before his death was in the care of the Authority, in accordance with the Burial Grounds Act [Chap. 30:50] and Cremation Act [Chap. 30:51].

(3) Where the Authority disposes of a body of a deceased child under subsection (1) it may, where it is of the opinion that the parent or guardian of the child would have had the means to cover the burial or cremation expenses, without prejudice to any other method for the recovery thereof, recover such sums as a civil debt.

### **Power of Authority to defray expenses of parents visiting children or attending funerals.**

**38.** The Authority may, if it deems fit, make payments to any parent or guardian or other persons concerned with a child in its care in respect of travelling, subsistence or other expenses incurred by the parent, guardian or other person in visiting the child or attending his funeral.

## PART V

### MAINTENANCE OF CHILDREN IN CARE

#### **Contribution in respect of children under the Authority**

**39.** (1) The Authority shall arrange with the parents or the guardian of a child for a contribution according to their means towards the maintenance of the child who is in the care of the Authority.

(2) Where an agreement cannot be reached in accordance with subsection (1), the Authority shall apply to the Court for an order for the maintenance of the child, having regard to the means of the parent or guardian.

(3) Where a person, other than the parent, is liable to maintain a child, an order under this section may be made on that person notwithstanding that there may also be a parent.

(4) An order made under this section may, on application being made either by the person on whom the order is made or by or at the instance of the Authority and on fourteen days notice of such application being given to the Authority or person on whom the order was made, be varied by the Court.

#### **Paternity Orders**

**40.** (1) A Court may, upon the hearing of an application under section 39 against any person in respect of the maintenance of any child, if it is alleged that he is the father of such child, make a paternity order against him in accordance with section. 23 of the Family Law (Guardianship, Domicile and Maintenance) Act [**Chap. 46:08**].

(2) In making an order under this section the Court may direct that any amount payable under that Act, shall in the future be paid into the Authority.

#### **Contribution in respect of young offenders**

**41.** (1) The Court may, on complaint being made by Authority, at any time whilst a youthful offender or a child is detained, make order against a parent or any other person for the payment to the Authority of such weekly or monthly sum during the whole or any part of the time for which the youthful offender or child is kept.

(2) If the Court making the detention order is the upper division, then that Court may, if it thinks fit, remit the case to the lower division of the district in which the youthful offender or child was committed for trial, for the purpose of making an order under this section, and, upon the case being so remitted, the Magistrate shall have power to make any such order under this section as the upper division might have made.

(3) An order made under this section may, on application being made either by the person on whom the order is made or by or at the instance of the Authority and on fourteen days notice of such application being given to the Authority or person on whom the order was made, be varied by the Court.

#### **Parent to inform change of address**

**42.** Where a parent or other person has been ordered to contribute to the maintenance of a child, he shall give notice of any change of address to the Authority and a person who fails to do so without reasonable excuse commits an offence and on summary conviction shall be liable to a fine of five hundred dollars.

### **Recovery and enforcement of Orders and contributions**

**43.** (1) A Court making an order for a contribution by a parent or any other person may, in the case where there is any pension or income payable to such parent or other person capable of being attached, after giving such parent or person an opportunity of being heard, order that such part of the pension or income, as the Court may see fit, be attached and be paid to the person named by the Court in accordance with the Attachment of Earnings (Maintenance) Act [Act No. 14 of 1988].

(2) An order under subsection (1), shall be sufficient authority to the person by whom such pension or other income is payable to make the payment to the person or body so ordered, and the receipt by the person to whom the payment is so ordered shall be a sufficient discharge of the obligation of the first named person.

(3) All sums of money ordered to be paid under this section, may be recovered summarily by distress and sale of the goods and chattels of the person upon whom such order is made, and where sufficient distress is not found, such person may be liable for imprisonment for a term of two months.

### **Contribution by the child**

**44.** A child under the care of the Authority who has attained the age of sixteen years and is engaged in the remunerative work shall be liable to make contributions to the Authority in respect of himself and where no agreement can be reached or where an agreement is not being complied with the Court may order the payments of an appropriate amount by him according to his means.

### **Duration of Order**

**45.** A Contribution Order made under this Part shall remain in force as long as the child is in the care of the Authority but a person may at any time apply to the Court for the order to be varied or discharged.

## **PART VI**

### **FINANCIAL PROVISIONS**

### **Creation of the Fund**

**48.** (1) There is hereby established a Fund called the Children Authority Fund.

(2) The revenue of the Fund shall be-

- (a) money allocated to the Authority by Parliament;
- (b) grants, donations and assistance received by national and international organisations and agencies; and
- (c) monies and fees received under the Act.

### **Application of the Fund**

**47.** (1) The monies in the Fund shall be utilised for defraying the following expenses:

- (a) administration of the Act;

- (b) remuneration and allowances for the members of the Board;
- (c) payment of salaries and allowances for the members of the staff; and
- (d) any other expenditure authorised by the Board for the exercise of its powers.

(2) The accounts of the Authority shall be maintained in accordance with the generally accepted accounting principles.

#### **Rules for accounting and audit**

**48.** (1) The Board shall prescribe Rules for the proper control of the system of accounting and the financial management of the Authority including provision for an adequate system of internal auditing.

(2) The accounts of the Authority shall be audited annually by the Auditor General or by a qualified auditor appointed by the Auditor General.

#### **Annual Report**

**49.** (1) The Board shall within three months of the end of each financial year submit to the Minister an annual report dealing with the activities of the Authority during the financial year, together with financial statements and such other information relating to the operations and functions of the Authority.

(2) The Minister shall cause a copy of the report and the financial statements and such other information submitted under subsection (1) to be laid before Parliament within twenty eight days of its receipt by him.

## **PART VII**

### **MISCELLANEOUS**

#### **Authority to make Regulations**

**50.** (1) The Authority may, with the approval of the Minister, make regulations in respect of-

- (a) the burial of children in the care of the Authority; and
- (b) matters which are required to be prescribed and for the purpose of giving effect to the provisions of the Act.

(2) All such rules shall be subject to affirmative resolution of Parliament and when so affirmed shall have the same force and effect as if they were contained in this Act.

(3) The Minister may also prescribe the forms to be used for the purposes of this Act and all such forms so prescribed shall be published in the *Gazette*.

## **SCHEDULE**

### **OFFENCES**

(Section 33)

Sections-

4 or 5 of the Summary Offences Act, Chap. 11:02

6, 21, 32, 34 to 40 inclusive, 45, 48, 54 or 61 of the Offences Against the Person Act, Chap. 11:08;

3 to 8 inclusive, 24 to 28 inclusive of the Children Act, Chap. 28:07

2 to 9 inclusive or 11 of the Sexual Offences Act, No. 28 of 1996

2 of the Domestic Violence Act, No. 10 of 1991

Buggery or any of the offences involving bodily injury to a child or young person.

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

D. DOLLY  
*Acting Clerk of the House*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all members of the House that is to say by the votes of twenty-five members of the House.

D. DOLLY  
*Acting Clerk of the House*

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

N. COX  
*Clerk of the Senate*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all members of the Senate that is to say by the votes of twenty-two members of the Senate.

N. COX  
*Clerk of the Senate*

Senate amendments agreed to by the House of Representatives this 6th day of October, 2000.

D. DOLLY  
*Acting Clerk of the House*

REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 8 of 2003**

AN ACT to amend the Children's Authority Act, 2000

*[Assented to 19th March, 2003]*

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

**Short title**

1. This Act may be cited as the Children's Authority (Amendment) Act, 2003.

**Section 3 amended**

2. Section 3 of the Children's Authority Act [Act No. 64 of 2000] is amended by deleting the definition of the word "Court" therein and substituting the following:

"Court" means the Court with jurisdiction for family matters.

Passed in the Senate this 19th day of November, 2002.

D. DOLLY  
*Clerk of the Senate*

Passed in the House of Representatives this 7th day of March, 2003.

J. SAMPSON-JACENT  
*Clerk of the House*

REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 14 of 2008**

An Act to amend the Children's Authority Act, 2000

*[Assented to 26th September, 2008]*

**Preamble**

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and if any Act does so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all members of that House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

**Enactment**

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

**Short title**

1. This Act may be cited as the Children's Authority (Amendment) Act, 2008.

**Inconsistency with the Constitution**

2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

**Interpretation**

3. In this Act "the Act" means the Children's Authority Act, 2000 [**Act No. 65 of 2000**].

**Section 3 amended**

4. Section 3 of the Act is amended-
  - (a) by deleting the definition of "Assumption Order";
  - (b) by inserting after the definition of "child" the following definition:

" "child in need of care and protection" means a child referred to in section 22(1);"
  - (c) by deleting the definition of "Children's Home" and substituting the following definition:

- " "Children's Home" has the meaning assigned to it by the Children's Community Residences, Foster Care and Nurseries Act, 2000;";
- (d) by deleting the definition of "Community Residence" and substituting in the appropriate alphabetical sequence the following definition:
  - " "Community Residence" means a Children's Home or Rehabilitation Centre licensed under the Children's Community Residences, Foster Care and Nurseries Act, 2000;";
- (e) by deleting the definition of "fit person" and substituting the following definition:
  - " "fit person" means a relative of the child or such other person, including a body corporate, authority, agency or society established for the reception of children and young persons to whom this Act applies and who is found by the court to be a suitable person to care for the child;";
- (f) in the definition of "foster care" by deleting the words "Foster Homes" and substituting the words "Foster Care";
- (g) by inserting after the definition of "guardian" the following definition:
  - " "imminent danger" means likelihood of physical, emotional, mental or psychological harm;";
- (h) by deleting the definition of "Minister" and substituting the following definition:
  - " "Minister" means the Minister with responsibility for the Children's Authority;";
- (i) by deleting the definition of "Rehabilitation Centre" and substituting the following definition:
  - " "rehabilitation centre" has the meaning assigned to it by the Children's Community Residences, Foster Care and Nurseries Act, 2000;";
- (j) by deleting the definition of "relative" and substituting the following definition:
  - " "relative" includes-
    - (a) a parent;
    - (b) a step-parent;
    - (c) a grand parent;
    - (d) a brother or sister, whether of whole or half-blood; or
    - (e) an uncle or aunt, whether of whole or half-blood;"; and
- (k) by deleting the definitions of "young person" and "temporary assumption".

## **Act amended**

### **5. The Act is amended by-**

- (a) deleting the words "Children's Community Residences, Foster Homes and Nurseries Act, 2000" wherever they occur and substituting the words "Children's Community Residences, Foster Care and Nurseries Act, 2000"; and
- (b) deleting the words "Reception Center" and "Reception Centers" wherever they occur and substituting the words "Reception Centre" and "Reception Centres", respectively.

### **Section 3A inserted**

6. The Act is amended by inserting after section 3 the following section:

#### **"Objects of the Act**

3A. The objects of this Act are to--

- (a) promote the well being of all children in Trinidad and Tobago;
- (b) provide care and protection for vulnerable children; and
- (c) comply with certain obligations under the United Nations Convention on the Rights of the Child."

### **Section 5 repealed and substituted**

7. The Act is amended by repealing section 5 and substituting the following section:

#### **"Powers and functions of the Authority**

5. (1) The Authority may have and exercise such powers and functions as are conferred on it by this Act and in particular may-

- (a) provide care, protection and rehabilitation of children in accordance with Part III of this Act;
- (b) investigate and make recommendations with respect to the adoption of children in accordance with the Adoption of Children Act, 2000;
- (c) investigate complaints made by any person with respect to any child who is in the care of a community residence, foster home or nursery, that the said residence, home or nursery failed to comply with the requisite standards prescribed under the Children's Community Residences, Foster Care and Nurseries Act, and any incident of mistreatment of children in such places;
- (d) investigate complaints or reports of mistreatment of children;
- (e) upon investigation, remove a child from his home where it is shown that the child is in imminent danger;
- (f) monitor community residences, foster homes and nurseries and conduct periodic reviews to determine their compliance with such requirements as may be prescribed;
- (g) issue, suspend and revoke licences of community residences and nurseries as provided under the Children's Community Residences, Foster Care and Nurseries Act;
- (h) advise the Minister on matters relating to the operation of this Act; and
- (i) do all such things as may be necessary or expedient for the proper performance of its duties.

(2) In the course of exercising its powers under subsection (1), the Authority may provide the following services to children assessed by the Authority to be in need of those services while they are living with their families:

- (a) advice, guidance and counselling;
- (b) occupational, social, cultural or recreational activities;
- (c) home help; and
- (d) facilities for or assistance with travelling to and from home for the purpose of accessing any other service provided by the Authority or any similar service."

#### **Section 5A repealed and substituted**

8. The Act is amended by repealing section 5A and substituting the following section:

##### **"Powers of Authority in relation to adoptions**

5A. In exercising its powers in relation to the adoption of children, the Authority shall-

- (a) receive applications from parents, guardians 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;
- (c) 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;
- (d) advise the Minister regarding adoption matters generally; and
- (e) listen to the views of the child."

#### **Section 6 amended**

9. Section 6 of the Act is amended-

(a) by repealing subsection (1) and substituting the following section:

##### **"Duties of the Authority**

6. (1) It shall be the duty of the Authority to-

- (a) promote the well being of the child;
- (b) recognize and give effect to the right of the parent to be heard and the right of the parent to a fair hearing;
- (c) act as an advocate to promote the rights of all children in Trinidad and Tobago;
- (d) take all reasonable steps to ensure the availability of accommodation necessary for compliance with this Act;
- (e) take all reasonable steps to ensure the availability of staff required for proper implementation of the Act, inclusive of programmes for training;
- (f) take all reasonable steps to prevent children from suffering ill-treatment or neglect;
- (g) promote contact between the child and-

- (i) his parents;
- (ii) any person who is not his parent but who has parental responsibility for him; or
- (iii) any relative, friend or other person connected with him, except where it is not reasonably practicable or is prejudicial to the welfare of the child;
- (h) exercise such powers as are conferred on it by this Act and as may be necessary with respect to any child so as to serve the best interests of that child;
- (i) make use of such facilities and services available for children that are provided by other agencies or institutions, as appears reasonably necessary to the Authority."; and

(b) in subsection (2)-

- (i) by inserting after the word "child" the word ",";
- (ii) in paragraph (b)(i), by deleting the words "or creed";
- (iii) in paragraph (b)(ii), by deleting the words "recognized and permitted under the laws of Trinidad and Tobago";
- (iv) by inserting after paragraph (c), the following paragraphs:
  - "(ca) where appropriate, pre-serving the family unit and reuniting the child with his relatives at the earliest opportunity;
  - (cb) the right of the child to the enjoyment of family life;
  - (cc) the right of the child to be heard;
  - (cd) the right of the child to representation and a fair hearing; and
  - (ce) any other relevant support necessary for the well being of the child;"
- (v) in paragraph (f), by inserting before the word "other" the word "the";
- (vi) in paragraph (h), by inserting after the words "domestic violence" the words "or any other form of abuse"; and
- (vii) in paragraph (i), by inserting after the words "to be" the word "of".

## **Section 7 amended**

**10.** Section 7 of the Act is amended-

(a) by repealing subsection (2) and substituting the following subsections:

" (2) The Board shall consist of no more than eleven persons and no less than seven persons who shall be appointed by the President and have the following professional qualifications and skills:

- (a) child psychology; or
- (b) child psychiatry;

- (c) social work;
- (d) paediatrics;
- (e) education;
- (f) accounting; and
- (g) family law.

(2A) The persons selected under subsection (1) shall include:

- (a) a person under the age of twenty-five years representing the youth appointed by the President;
  - (b) a person nominated by the Tobago House of Assembly with experience in children's issues appointed by the President;
  - (c) the Director of the Authority appointed under section 10 who shall be an *ex officio* member of the Board; and
  - (d) a representative of a Non-Governmental Organization which promotes the welfare and protection of children.";
- (b) in subsection (7)(e), by deleting the words "two consecutive meetings" and substituting the words "three consecutive, duly constituted meetings";
- (c) in subsection (9), by deleting the words "shall" and "must" and substituting the words "may" and "shall", respectively;
- (d) in subsection (10), by deleting the word "seven" and substituting the words, "five inclusive of the Chairman or Deputy Chairman"; and
- (e) by inserting after subsection (10) the following subsections:

" (10A) Where a decision is to be made by the Board and the number of members sitting to vote is even, the Chairman shall have a casting vote.

(10B) Where members are temporarily unable to perform their duties, the President may appoint other persons to act in their stead.".

## **Section 7A inserted**

**11.** The Act is amended by inserting after section 7 the following section:

### **"Adoption Committee**

7A. (1) Where a decision with respect to the adoption of a child arises, a committee of the Board to be known as the Adoption Committee shall sit to take such decision.

(2) The Adoption Committee shall consist of persons who have the following professional qualifications and skills:

- (a) paediatrics;
- (b) law;
- (c) child psychology or child psychiatry; and
- (d) social work.

(2A) The following persons shall also be members of the Committee:

- (a) a person nominated by the Tobago House of Assembly with experience in children's issues appointed by the President;
- (b) the representative of the Non-Governmental Organization; and
- (c) the head of the Adoption Unit.

(3) Where the Adoption Committee makes a decision in respect of the adoption of a child such decision shall be ratified by the Board.

(4) The Adoption Committee shall elect one of their number to be the Chairman of the Committee.

(5) The Adoption Committee may regulate its own procedure."

#### **Section 8 amended**

**12.** Section 8 of the Act is amended in-

- (a) subsection (1), by deleting the words "the Chairman, or in his absence the Deputy Chairman." and substituting, the words "the Director.";
- (b) subsection (2), by deleting all the words after the words "an instrument" and substituting the words "by the Director or the Secretary."; and
- (c) subsection (3), by deleting the words "Chairman, or in his absence the Deputy Chairman" and substituting the words "Director, Secretary or such other persons authorized to do so by the Board."

#### **Section 9 amended**

**13.** Section 9 of the Act is amended by deleting the word "Chairman" and substituting the word "Director".

#### **Section 10 amended**

**14.** Section 10 of the Act is amended-

- (a) by inserting after subsection (1), the following subsections:
  - " (1A) The Board shall appoint at least one Deputy Director who shall assist the Director with the day-to-day functions of the Authority.
  - (1B) The Board shall appoint a Secretary on such terms and conditions as it thinks fit."; and
- (b) in subsection (2), by inserting after the word "Director" the words "or to the Deputy Director".

#### **Section 11 repealed and substituted**

**15.** The Act is amended by repealing section 11 substituting the following section:

##### **"Composition of Authority**

**11.** For the effective management of its duties and functions, the Authority shall

have such units and centres including an Adoption Unit and a Foster Care Unit as may be prescribed by the Minister on the advice of the Board."

### **Section 12 and 13 repealed**

16. The Act is amended by repealing sections 12 and 13.

### **Section 14 amended**

17. Section 14 of the Act is amended-

(a) by repealing subsections (1) and (2) and substituting the following subsections:

#### **"Assessment and Support Centres and Reception Centres**

14. (1) The Authority shall maintain Assessment and Support Centres and Reception Centres.

(2) An Assessment and Support Centre shall be responsible for-

(a) the initial assessment and referral of children coming to the attention of the Authority; and

(b) where necessary, shall liaise with support services and agencies for counselling, investigation and continued management of cases,

and shall be staffed with social workers with experience in children's issues.";

(b) in subsection (4), by deleting the words "be staffed with" and substituting the words "have available to them";

(c) by inserting after subsection (4), the following subsection:

" (4A) The Authority may also make other arrangements for the availability of such qualified personnel as it may need from time to time.";

(d) in subsection (6), by deleting the words "the Reception" and "six" and substituting the words "a Reception" and "twelve" respectively; and

(e) in subsections (2), (3), (4) and (5), by deleting the words "The Reception" wherever they occur and substituting the words "a Reception".

### **Section 15 repealed**

18. The Act is amended by repealing section 15.

### **Section 17 amended**

19. Section 17 of the Act is amended-

(a) in subsection (1), by deleting the words "transferred on";

(b) by repealing subsections (2) and (3) and substituting the following subsections:

" (2) Where secondment referred to in subsection (1) is effected, arrangements shall be made to preserve the rights of the officers seconded to any pension, gratuity or

other allowance for which he would have been eligible had he not been seconded.

" (3) A period of secondment shall be for three years and may only be extended once for a further period of up to two years."

### **Section 18 repealed and substituted**

**20.** Section 18 of the Act is repealed and the following section substituted:

#### **"Transfer of public affair to Authority**

18. An officer in the public service may with the approval of the appropriate Service Commission consent to be transferred to the service of the Authority."

### **Section 19 repealed and substituted**

**21.** Section 19 of the Act is repealed and the following section substituted:

" 19. (1) The Authority shall provide for the establishment and maintenance of a pension plan or arrange for membership in a plan for its employees.

(2) A member of the public service who transfers to the Authority shall become a member of any pension plan operated for the benefit of employees of the Authority.

(3) Superannuation benefits which have accrued to any person who was transferred from the public service to the Authority under section 18, shall be preserved at the date of his transfer to the Authority and such person shall continue to accrue such benefits under the relevant pensions legislation up to the date-

(a) of the establishment of a pension plan under this section; or

(b) that arrangements are made for membership in a plan.

(4) Superannuation benefits accrued under subsection (3) shall be calculated on the basis of pay, pensionable emoluments or salary applicable to the office which the person held immediately prior to his employment by the Authority.

(5) Where a person who transferred from the public service to the Authority dies or retires before-

(a) the establishment of a pension plan under this section; or

(b) arrangements could be made for membership in a plan,

and at the date of his death or retirement was in receipt of a salary higher than the pay, pensionable emoluments or salary applicable to the office which he held immediately prior to his employment by the Authority, the difference in superannuation benefits payable on the basis of the higher salary and those payable under the relevant pension legislation on the basis of the salary referred to in subsection (4) shall be paid by the Authority.

(6) Where a person who transferred from the public service to the Authority dies or retires while being a member of any pension plan-

(a) established by the Authority under this section; or

(b) in respect of which arrangements have been made for membership,

he shall be paid superannuation benefits at the amount which when combined with the

superannuation benefits payable under subsection (3) is the equivalent to the benefits based on his pensionable service in the public service combined with his service in the Authority and calculated at the pensionable salary applicable to him on the date of his retirement or death.

#### **Section 21 amended**

**22.** Section 21 of the Act is amended by inserting after the words "the Act" the words, "which the Authority shall follow".

#### **Section 22 amended**

**23.** Section 22 of the Act is amended-

(a) by repealing subsection (1) and substituting the following subsections:

" (1) Where the Authority is of the view that a child is in need of care and protection and that its intervention is necessary in the best interest of the child, it shall investigate the matter and it shall be lawful where appropriate, for the Authority to receive the child into its care.

(1A) A child is in need of care and protection where the child-

- (a) has neither parent nor guardian who is fit to exercise care and guardianship;
- (b) is lost or has been and remains abandoned by his parent or guardian;
- (c) whose parent or guardian is prevented by-
  - (i) reason of mental or bodily disease;
  - (ii) infirmity or other incapacity; or
  - (iii) any other circumstances,from providing for his up-bringing, and there is no available person or persons capable, fit or willing to undertake the care of such child;
- (d) is exposed to moral danger;
- (e) is beyond the control of his parent or guardian;
- (f) is ill-treated or neglected in a manner likely to cause him suffering or injury to health;
- (g) is destitute or is wandering without any settled place of abode and without visible means of subsistence;
- (h) is begging or receiving alms;
- (i) is found loitering for the purpose of begging or receiving alms;
- (j) frequents the company of any criminal; or
- (k) frequents the company of any common or reputed prostitute not being the mother of the child.";

(b) in subsection (3), by deleting the words "parents or other persons" and substituting the words "parent or other person".

### **Sections 23 and 24 repealed and substituted**

**24.** The Act is amended by repealing sections 23 and 24 and substituting the following sections:

#### **"Wardship of children in the care of the Authority**

23. (1) Where the Authority receives a child into its care under section 22, it shall immediately make an application to the court for

- (a) a Wardship Order under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act [**Chap. 46:08**] to be made in respect of the child and any other Order; or
- (b) an Order including an interim Order under section 25 that the Authority determines necessary

(2) Where the Authority makes an application for a Wardship Order in pursuance of subsection (1), the Authority shall join the parent or guardian of the child in the application.

(3) An application for an interim order under subsection (1) may be made *ex parte*.

### **Section 25 repealed and substitution**

**25.** Section 25 of the Act is repealed and the following section substituted:

#### **"Power of Court in respect of children in need of care and protection**

25. here the Court is satisfied that a child brought before it by the Authority is a child in need of care and protection, the Court may make the following:

- (a) a Family Assistance Order;
- (b) a Secure Accommodation Order;
- (c) a Care Order;
- (d) a Child Assessment Order;
- (e) an Emergency Protection Order;
- (f) a Recovery Order;
- (g) a Fit Person Order under the Children Act;
- (h) a Recognizance Order;
- (i) a Foster Care Order;
- (j) an Order freeing a child for adoption;
- (k) a Contribution Order under section 44; or
- (l) any other Order including an interim order as the Court thinks fit."

### **Sections 25A to 25J inserted**

**26.** The Act is amended by inserting after section 25 the following sections:

### **"Family Assistance Order**

25A. A Family Assistance Order made under section 25(a) shall be for the purpose of counselling and any other relevant assistance deemed necessary for the well being of the child.

### **Secure Accommodation Order**

25B. A Secure Accommodation Order made under section 25(b) shall be for the purpose of restricting the liberty of the child where it appears to the Court that the child has a history of absconding and is likely to abscond from another type of accommodation where the child is likely to-

- (a) suffer significant . harm if he absconds; or
- (b) injure himself or other persons if he is kept in any other kind of accommodation.

### **Care Order**

25C. (1) A Care Order made under section 25(c) shall be for the purpose of placing a child under the care of the Authority or a community residence.

(2) A Care Order under this section may be made on the application of the Authority, a probation officer or an officer of the National Family Services Division of the Ministry with responsibility for the delivery of social services.

### **Child Assessment Order**

25D. (1) A Child Assessment Order made under section 25(d) shall be for the purpose of assessing-

- (a) the state of a child's health;
- (b) the child's development; or
- (c) the manner in which the child has been treated.

(2) The Court may make a Child Assessment Order where it is satisfied that-

- (a) the applicant has reasonable cause to suspect that the child is suffering or is likely to suffer physical, emotional, mental or psychological harm;
- (b) such an assessment is required to enable the applicant to determine whether or not the child is suffering or is likely to suffer harm; and
- (c) it will be unlikely that an assessment will be made or be satisfactory in the absence of the order.

(3) A Child Assessment Order-

- (a) shall specify the period of assessment and the date on which the assessment is to begin; and
- (b) may require the medical, psychiatric and psychological examination of the child.

(4) Where a Child Assessment Order states that a child shall be kept away from his home, it shall specify the conditions under which the child may be so kept, including the degree of contact with other persons that he may be allowed during that period.

(5) Where the Court makes a Child Assessment Order, the person who is in *de*

*facto* control of the child or who is in a position to produce the child, shall comply with any direction in the Order and produce the child to the person named in the Order.

### **Emergency Protection Order**

25E. (1) An Emergency Protection Order under section 25(e) shall be made where the Court is of the view that-

- (a) the child is likely to suffer physical, emotional, mental or psychological harm;
- (b) enquiries as to whether the child is suffering or is likely to suffer physical, emotional, mental or psychological harm are being frustrated by access to the child being unreasonably refused and the applicant has reason to believe that access to the child is required as a matter of urgency.

(2) An Emergency Protection Order may-

- (a) direct a person named in the Order and who is in *de facto* control of the child or who is in a position to do so, to produce the child to the applicant;
- (b) authorize the removal of a child from any place or the detention of a child at a community residence at any time;
- (c) prohibit the removal of the child from any place at which he was being accommodated immediately before the order was made;
- (d) give the applicant parental responsibility for the child;
- (e) limit the applicant to the exercise only of those powers which are specified in the Order;
- (f) determine the contact which is or is not allowed with any named person; and
- (g) require the medical, psychiatric and psychological examination of the child.

### **Recovery Order**

25F. (1) A Recovery Order under section 25(f) may be made where it appears to the court that there is reason to believe that a child-

- (a) has been unlawfully taken or is being unlawfully taken away from the person who has parental care and responsibility for the child;
- (b) has run away or is staying away from the person who has parental care and responsibility for him; or
- (c) is missing.

(2) A Recovery Order shall--

- (a) direct any person who is in a position to do so, to produce the child on request to-
  - (i) any person specified in the Order;
  - (ii) a police officer; or
  - (iii) any other person who is authorized by the parent or any person in

whose favour a Care Order or an Emergency Protection Order is made, after the Recovery Order is made;

- (b) authorize the removal of the child by any of the persons under paragraph (a); or
- (c) authorize a police officer to enter premises specified in the order to search for the child, using reasonable force if necessary.

#### **Fit Person Order**

25G. A Fit Person Order made under section 25(g) shall be an order under the Children Act directing a child to be put in the care of a fit person.

#### **Recognisance Order**

25H. A Recognizance Order made under section 25(h) shall direct the parent or guardian of a child to enter into recognizance to exercise proper care and guardianship over the child.

#### **Foster Care Order**

25I. A Foster Care Order made under section 25(i) would direct the foster care unit under the Community Residences, Foster Homes and Nurseries Act [Act No. 65 of 2000] to place the child in foster care.

#### **Order freeing a child for adoption**

25J. An Order freeing a child for adoption made under section 25(j) shall make the child available for adoption under the Adoption of Children Act [Act No. 67 of 2000]."

### **Sections 26 and 27 repealed and substituted**

27. The Act is amended by repealing sections 26 and 27 and substituting the following sections:

#### **"Appointment of guardian *ad litem***

26. Where in a matter before the Court under this Act, a child is before the Court, it may, where it considers it necessary, appoint a guardian *ad litem* to represent the views of the child and act in his interest.

#### **Appointment of an Officer of the Civil Law Department**

27. Where in a matter before the Court under this Act, a child is before the Court, it may, where it considers it necessary, make an order requesting the Attorney General to assign the appropriate officer from the Civil Law Department to represent any child before the Court."

### **Section 28 amended**

28. Section 28 of the Act is amended by-

- (a) deleting paragraph (a); and
- (b) deleting all the words after the words "and shall" and substituting the words "be liable on conviction to imprisonment for a term of not less than twenty-five years."

### **Section 29 repealed**

**29.** The Act is amended by repealing section 29.

### **Section 30 amended**

**30.** Section 30 of the Act is amended-

(a) by repealing subsection (1) and substituting the following subsection:

"(1) Where a child has been received into the care of the Authority and subsequently that child is determined to be mentally ill under the Mental Health Act, and such determination results in the admission of the child to a psychiatric hospital, if there is no one willing and able to assume responsibility for the child, the Authority shall continue to exercise responsibility and rights in respect of that child notwithstanding the fact that the Authority does not have physical control of the child."; and

(b) in subsection (2), by deleting the words "Psychiatric Hospital Director of the institution" and substituting the words "director of the psychiatric hospital".

### **Section 31 amended**

**31.** Section 31 of the Act is amended by-

(a) inserting before the word "informed" the word "kept"; and

(b) inserting after subsection (1), the following subsection:

" (1A) The Authority shall keep and maintain a record of the names, addresses and other pertinent information of all parents or guardians of children who have been received into care.".

### **Section 32 repealed and substituted**

**32.** The Act is amended by repealing section 32 and substituting the following section:

#### **"Leaving the country without making proper arrangements**

32. Where the Authority is of the view that a person legally liable for the care and maintenance of any child, intends to leave Trinidad and Tobago without making adequate arrangements for the care of the child, it may apply to the Court for an Order to prevent the person from leaving Trinidad and Tobago until such person has made provision to the satisfaction of the Court that-

(a) the child is not likely to become a charge on the public funds; or

(b) such child is not exposed to moral danger or neglect by reason of lack of care and maintenance.".

### **Section 33 amended**

**33.** The Act is amended in section 33 by repealing subsections (1), (2) and (3) and substituting the following subsections:

" (1) A court with criminal jurisdiction before which a person is charged with having committed an offence in respect of a child mentioned in the Schedule or any offence under this Act, may direct that the child be brought to the attention of the Authority.

(2) The Minister may by Order, amend the Schedule."

#### **Section 34 amended**

**34.** Section 34 of the Act is amended in subsection (2), by deleting the word "homes" and substituting the word "Care".

#### **Section 35 amended**

**35** Section 35 of the Act is amended-

- (a) in subsection (2), by deleting the word "part" and substituting the word "Part";
- (b) by inserting after subsection (2), the following subsection:

" (3) The Authority may defray the cost of accommodation referred to in subsection (1)."

#### **Section 35A repealed**

**36.** The Act is amended by repealing section 35A.

#### **Section 36 amended**

**37.** Section 36 of the Act is amended-

- (a) in subsection (1), by deleting the words "consent of the Minister, procure or assist in procuring the emigration for" and substituting the words "permission of the Court, assist in the emigration of";
- (b) in subsection (2)-
  - (i) by deleting the words "Minister shall not give his consent" and "he" and substituting the words "Court shall not give its permission" and "it" respectively;
  - (ii) in paragraph (a), by deleting the words "benefit the child" and substituting the words "be in the best interest of the child";
  - (iii) in paragraph (b), by inserting after the word "reception" the words "and the necessary legal requirements for the immigration of the child in the destination country are met";
  - (iv) in paragraph (c), by deleting the word "has" and substituting the word "have"; and
  - (v) by deleting paragraph (e) and substituting the following paragraph:

"(e) the wishes of the child have been taken into account."; and
- (c) by deleting subsection (3).

### **Section 37 amended**

**38.** Section 37 of the Act is amended by repealing subsection (3).

### **Section 39 amended**

**39.** Section 39 of the Act is amended in-

- (a) subsection (1), by deleting the word "shall" and substituting the word "may";
- (b) subsection (2), by deleting the word "shall" and substituting the word "may"; and
- (c) subsection (3), by deleting the words "made on that person notwithstanding that there may also be a parent" and substituting the words "made against that person".

### **Section 40 amended**

**40.** Section 40 of the Act is amended in-

- (a) subsection (1), by deleting the words "section 23" and substituting the words "section 22" and by inserting after the word "Act" the words "and the Status of Children Act"; and
- (b) subsection (2), by deleting the words "this section" and substituting the words "section 39".

### **Section 41 amended**

**41.** Section 41 of the Act is amended in-

- (a) subsection (1), by deleting the words "or a child is detained make an order against a parent or any other person" and substituting the words "is detained in a rehabilitation centre make an order against a parent or any other person who has care and control over the youthful offender";
- (b) by repealing subsection (2); and
- (c) in subsection (3), by deleting the words "on whom" wherever they occur and substituting the words "against whom".

### **Section 43 amended**

**42.** Section 43 of the Act is amended by repealing subsections (2) and (3).

### **Section 44 amended**

**43.** Section 44 of the Act is amended by-

- (a) inserting after the words "order the pay means" the words "(hereinafter referred to as a Contribution Order)"; and
- (b) deleting the words "the remunerative" and substituting the word "remunerative".

### **Section 46 amended**

**44.** Section 46 of the Act is amended in subsection (2)(b)-

- (a) by deleting the word "by" and substituting the word "from"; and
- (b) by inserting after the word "agencies" the words "as approved by the Minister of Finance".

**Section 50 amended**

**45.** Section 50 of the Act is amended-

- (a) in subsection (1)(b), by inserting the words "under this Act" after the word "prescribed"; and
- (b) by repealing subsection (2) and substituting the following subsection:  
" (2) Regulations made under this Act shall be subject to affirmative resolution of Parliament."

**Section 51 amended**

**46.** The Act is amended by inserting after section 50 the following section:

**"Rules Committee to make Rules Chap.4:01**

51. The Rules Committee established by section 77 of the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules for the purpose of the Court exercising its functions under this Act."

**Schedule**

**47.** The Schedule to the Act is repealed and the following Schedule substituted:

"

**"SCHEDULE**

(section 33)

| <i>Legislation</i>                               | <i>Section</i>   |
|--------------------------------------------------|------------------|
| The Summary Offences Act, Chap 11:02             | 4, 5             |
| The Offences Against the Person Act, Chap. 11:08 | 6, 21, 48, 54    |
| Children Act, Chap. 46:01                        | 3 to 8, 24 to 28 |
| Sexual Offences Act, No. 28 of 1996              | 4 to 11"         |

Passed in the House of Representatives this 13th day of June, 2008.

*Clerk of the House*

IT IS IEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of

Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of 31 members of the House.

*Clerk of the House*

Passed in the Senate this 29th day of July, 2008.

*Clerk of the Senate*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of 26 members of the Senate.

*Clerk of the Senate*

Senate amendments agreed to by the House of Representatives on Friday 5th September, 2008.

*Clerk of the House*