



Secretariat Unit

Bill Essentials

The Adoption of Children (Amendment) Bill, 2014

An Act to amend the Adoption of Children Act, No. 67 of 2000

Bill no: 25 of 2014

Introduced in: The House of Representatives

Introduced by: Minister of Gender, Youth and Child Development

Introduced on: 19 November 2014

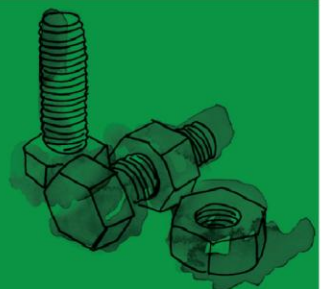


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BACKGROUND

The Adoption of Children (Amendment) Bill was introduced and read a first time in the House of Representatives on November 19, 2014 by the Honourable Clifton de Coteau, Minister of Gender, Youth and Child Development.

THE PURPOSE OF THE BILL

The Bill seeks to amend the Adoption of Children Act, No. 67 of 2000 ¹ which has not yet been proclaimed and to replace the Adoption Board with the Children's Authority.

KEY FEATURES OF THE PROPOSED LEGISLATION:

1. The Bill makes provision for procedures governing the adoption of children and giving effect to the United Nations Convention on the Rights of the Child.
2. Provides for the amendment of certain definitions in section 2.
3. Provides for the repeal of Part II.
4. Provides that the Authority may waive the probationary period of six months before an application for an adoption order can be made.
5. Provides that an applicant may give notice to the Authority of his intention not to adopt the child at any time during the probationary period.
6. Provides that a child may not be removed from the custody of an applicant except with leave of the Court.
7. Provides that the Authority must notify an applicant where his/her application to adopt a child has been rejected
8. Provides that an applicant may appeal the foregoing decision to a Judge of the High Court.
9. Provides for restrictions on the information the Authority may divulge to former parents.
10. Removes the requirement for a child to have legal representation in an adoption application.
11. Provides that adoption proceedings are to be held in camera.
12. Provides for the form and contents of a Birth Certificate of an adopted child.
13. Provides for the manner in which an application for disclosure of birth records of an adopted person may be made.

¹ <http://www.ttparliament.org/legislations/a2000-67.pdf>

14. Provides that an adopted person who intends to marry may make an application to the Registrar General to determine if they are within the prohibited degrees of consanguinity or affinity for the purposes of the Marriage Act.
15. Provides that the Registrar General shall issue a written report on the foregoing application.

COMPARATIVE TABLE OF PROPOSED AMENDMENTS

The table below outlines the proposed amendments to the Bill.

Table 1

THE ADOPTION OF CHILDREN ACT, CHAP 46:03	THE ADOPTION OF CHILDREN ACT 2000 (Not yet Proclaimed)	THE ADOPTION OF CHILDREN (AMENDMENT) BILL, 2014
<p>Long title</p> <p>An Act to make provision for the Adoption of Children.</p>	<p>Long Title</p> <p>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</p>	<p>Clause 3 amends the long title as follows</p> <p><i>New Long Title</i></p> <p><i>AN ACT to make provision for the regulation of procedures governing the adoption of children and to give effect to the United Nations Convention on the Rights of the Child, 1989.</i></p>
		<p>Clause 4</p> <p><i>The Act is amended -</i></p> <p><i>(a) by deleting the word “Board” and the words “Adoption Board” wherever they occur, except in the definition of “medical practitioner” in section 2 and in section 42, and substituting in each place the word “Authority”; and</i></p> <p><i>(b) by deleting the word “court” wherever it occurs and substituting in each place the word “Court”.</i></p>
<p>Section 2</p> <p>In this Act- “adopter” means a person who is proposing to adopt, or who has adopted a</p>	<p>Section 2</p> <p>In this Act— “adopter” means a person who applies or who has adopted a child, in pursuance of an adoption order;</p>	<p>Section 5 amends Section 2 of the old Act as follows:</p> <p><i>In this Act— “adopter” means a person who applies or who has adopted a child, in pursuance of an adoption order;</i></p>

<p>child, whether in pursuance of an adoption order or otherwise; “adoption order” means an adoption order for the purposes of this Act and includes an interim order made under section 13; “child” means a person under the age of eighteen years who has never been married; “Court” means any Court having jurisdiction to make adoption orders under this Act; “guardian” in relation to a child means a person appointed by Deed or Will in accordance with the Infants Act, or by a Court of competent jurisdiction, to be his guardian; “relative” in relation to any child, means father, mother, son, daughter, brother, sister, uncle, aunt, grandfather, grandmother, grandson, grand-daughter whether of the full blood, or of the half blood, or by affinity.</p>	<p>“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 Cohabital Relationship Act; “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; “medical practitioner” means a person registered under the Medical Board Act; “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</p>	<p><i>“adoption order” means an order made under this Act and includes an interim order made under section 19;</i> <i>“child” means a person under the age of eighteen years who has never been married;</i> <i>“cohabitant” has the meaning assigned to it under section 2 of the Cohabital Relationship Act;</i> <i>“court” means the High Court, or a court of summary jurisdiction where the contexts so permits;</i> <u>“former parent” means a person who had care and control of a child prior to any application to adopt the child</u> <i>“guardian”, means a person with guardianship as defined in the Family Law (Guardianship of Minors, Domicile and Maintenance) Act;</i> <i>“medical practitioner” means a person registered under the Medical Board Act;</i> <i>“Minister” means the Minister to whom responsibility for the welfare of children is assigned;</i> <i>“relative” means a grandparent, brother, sister, uncle or aunt, whether by consanguinity or affinity;</i> <u>“resident” has the meaning assigned to it by section 5 of the Immigration Act.”;</u> <i>“spouse” means the husband or wife of a person or the widow or widower of a deceased person;</i> <i>“the Authority” means the Children’s Authority established under the Children’s Authority Act.</i></p>
<p>Section 3 3.</p>	<p>Part II THE ADOPTION BOARD</p>	<p>Clause 6 amends the act by repealing Part II</p>

<p>(1) For the purposes of this Act a Board to be called the Adoption Board (in this Act referred to as the Board) shall be constituted which shall consist of a Chairman and not more than five persons to be appointed by the Minister.</p> <p>(2) At any meeting of the Board from which the Chairman is absent the members present shall appoint one of their number to officiate as Chairman of that meeting.</p> <p>(3) The quorum of the Board shall be three.</p> <p>(4) The Minister may appoint any person to act in the place of any member of the Board in case of the absence or inability to act of such member.</p> <p>(5) The Board shall have power to regulate its procedure.</p> <p>(6) The Board may appoint a fit and proper person to be Secretary to the Board and may determine the duties to be performed by the Secretary.</p> <p>(7) The Board may appear and be represented at any stage of the proceedings in a Court by the Secretary or by any person generally or specially authorised by the Board</p>	<p>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.</p> <p>(2) The Board shall consist of a Chairman and eight other members to be appointed by the Minister.</p> <p>(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.</p> <p>(4) The quorum of the Board shall be four.</p> <p>(5) The members appointed in accordance with subsection (2) shall include—</p> <ul style="list-style-type: none"> (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. <p>(6) The Chairman of the Board shall preside at all meetings of the Board.</p>	
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	<p>(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.</p> <p>(8) The Chairman may at any time resign his office by letter addressed to the Minister.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>4. (1) The Board shall appoint a Secretary and shall determine the duties to be performed by the Secretary.</p> <p>(2) The Secretary to the Board shall hold office for not more than five years but shall be eligible for re- appointment.</p> <p>5. A representative of the Board may appear in Court during the hearing of an application for an adoption order.</p> <p>6. (1) There shall be a seal of the Board which shall be kept in the custody of the Chairman</p>	
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	<p>and may be affixed to instruments pursuant to a resolution of the Board in the presence of the Chairman and one other member and the Secretary.</p> <p>(2) The seal of the Board shall be attested by the signature of the Chairman or the Secretary.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>(2) The meetings shall be held at a place and time to be determined by the Board.</p> <p>(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.</p> <p>(4) The Secretary shall keep the minutes of each meeting in proper form.</p> <p>(5) The Chairman shall certify a copy of the confirmed minutes at a subsequent meeting and forward it to the Minister.</p> <p>(6) The Director of Family Services or his representative shall attend each meeting of the Board.</p>	
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	<p>(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.</p> <p>(8) Subject to this Act, the Board may regulate its own procedure.</p> <p>8. (1) It shall be the duty of the Board to—</p> <p>(a) receive applications from parents, guardians, the Children’s Authority and prospective adopters in respect of the adoption of children;</p> <p>(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);</p> <p>(c) co-operate with and assist the Children’s Authority in matters relating to the adoption of children;</p> <p>(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;</p> <p>(e) advise the Minister regarding adoption matters generally; and</p> <p>(f) listen to the views of the child.</p>	
<p>Section 11</p> <p>(1) An adoption order shall not be made in any case where—</p> <p>(a) the applicant is under the age of twenty-five years, or</p> <p>(b) the applicant is less than twenty-one years older than the child in respect of whom the application is made; but the Court may, if it thinks fit, make an order—</p>	<p>Section 11</p> <p>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.</p>	<p><i>Clause 7 repeals Section 11 and substitutes with the following:</i></p> <p><i>New Section 11</i></p> <p><u>“The Authority, when placing a child with an adopter, shall have regard so far as practicable, to the wishes of the parent, guardian or child, in relation to the religious upbringing of the child.”</u></p>

<p>(i) notwithstanding that the applicant is less than twenty-five years of age, if the applicant is the mother of the child; or</p> <p>(ii) notwithstanding that 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 putative father of the child.</p> <p>(2) An adoption order shall not be made in any case where the sole applicant is a male unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.</p> <p>(3) Before the Court makes any interim order under section 13, or makes any adoption order without first making such interim order, consents to the adoption order by all persons (if any) whose consents are required in accordance with subsection (3A) of this section shall be filed in the Court.</p> <p>(3A) The persons whose consents to any such order in respect of any child are required as aforesaid, unless they are dispensed with by the Court under subsection (4A), shall be—</p> <p>(a) where there is no adoption order in force in respect of the child the parents or the surviving parent or the guardian or guardians, as the case may be;</p>		
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<p>(b) where there is an adoption order in force in respect of the child the adopting parents or parent or the surviving adopting parent.</p> <p>(4) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them; but the Court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving such consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.</p> <p>(4A) The Court may dispense with any consent required by subsection (3A) if it is satisfied—</p> <p>(a) in the case of a parent or guardian of the child, that he has abandoned, neglected or persistently ill-treated the child;</p> <p>(b) in the case of a person liable by virtue of an order or agreement to contribute to maintenance of the child that he has consistently neglected or refused so to contribute;</p> <p>(c) in any case, that the person whose consent is required cannot be found or is incapable of giving his consent or that his consent is unreasonably withheld;</p> <p>(d) in any other case where the Court sees fit.</p> <p>(5) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in Trinidad and</p>		
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<p>Tobago nor in respect of any child who is not a Commonwealth citizen and so resident.</p>		
<p>Section 12 The Court before making an adoption order shall be satisfied— (a) that every person whose consent is necessary under this Act and whose consent is not dispensed with has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of any parent, understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights; (b) that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the religious denomination of the parties and to the wishes of the child, having regard to the age and understanding of the child; (c) that the applicant has not received or agreed to receive, and that no person has made or given, or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the Court may sanction.</p>	<p>Section 12 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.</p>	<p>Clause 8 amends Section 12 as follows New Section 12 12. (1) <u>“Subject to subsection (2), an application to the Court for an adoption order shall not be made until the expiration of a period of six months (to be known as “the probationary period”) from the date on which the child is delivered into the care of the adopter.</u> (2) The <u>Authority</u> 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); <u>one of the applicants is a parent, step-parent or relative of the child, or has been a step-parent or relative of the child;</u> and (c) the child has been in the care and <u>control</u> 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 <u>Authority</u> is satisfied that it will be in the best interest of the child to do so. <u>(3) At any time during the probationary period-</u> <u>(a) the adopter may give notice in writing to the Authority of his intention not to adopt the child or;</u> <u>(b) the Authority may give the adopter notice in writing of the Authority’s decision not to allow the child to remain in the care of the adopter.”</u> (4) Where the <u>Authority</u> 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 <u>Authority</u> under subsection (3), the Board may, <u>may within twenty-one days</u> of the date on which the</p>

	<p>(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.</p> <p>(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.</p> <p>(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.</p>	<p><i>notice was given, remove the child from the care of the adopter.</i></p> <p><i>(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 <u>following the expiration of the probationary period</u>, apply to the <u>Court</u> for an adoption order in respect of the child or shall give notice in writing to the <u>Authority</u> of his intention not to apply for such an order.</i></p> <p><i>(7) Where notice is so given, or an application for an adoption order in respect of the child is refused by the <u>Court</u>, the <u>Authority</u> 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.</i></p>
<p>Section 13</p> <p>13. (1) If on application for an adoption order the Court is of the opinion that a further probationary period is desirable it shall have power to make an interim order not exceeding two years.</p> <p>(2) All such consents as are required for an adoption order shall be necessary to an interim order but subject to the power of the Court to dispense with any such consents.</p>	<p>Section 13</p> <p>(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.</p> <p>(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</p>	<p><i>Clause 9 amends Section 13 as follows:</i></p> <p><i>Subsection 1 is repealed and substituted with the following</i></p> <p><i><u>" (1) Before an adoption order is made in respect of a child who has been in the care and control of an applicant -</u></i></p> <p><i><u>(a)for at least three years preceding the application; or</u></i></p> <p><i><u>(b)for substantially all or most of his life,</u></i></p> <p><i><u>no person shall remove that child from such care and control of the applicant against the applicant's will except with the leave of the Court or under any written law or upon the arrest of the child."</u></i>; and</p> <p><i>Subsection 2 is repealed and substituted with the following:</i></p>

	<p>convicted may order the child to be returned to his parents or guardian or to the Board</p>	<p><u>“(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars and imprisonment for nine months.</u></p> <p><u>(3) Where a person is convicted under subsection (2), the Court may order that person to return the child to –</u></p> <p><u>(a) the applicant;</u> <u>(b) the parent of the child;</u> <u>(c) the guardian; or</u> <u>(d) the Authority.”.</u></p>
<p>Section 14 The Court in an adoption order may impose such terms and conditions as the Court may think fit and in particular may require the adopter by bond or otherwise to make for the adopted child such provision (if any) as in the opinion of the Court is just and expedient</p>	<p>Section 14 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</p>	<p><i>Clause 10 repeals section 14 and substitutes it with the following</i> <u>14. Where a person has made an application to the Authority to adopt a child and the Authority is of the opinion that the adoption of that child by that person would not be in the best interest of the child, the Authority shall notify the person accordingly.”</u></p>
		<p><i>New Section 14A</i> <u>14A. A person referred to in section 12(3)(b) or 14 may appeal from a decision of the Authority to a Judge of the High Court.”</u></p>
<p>Section 15 15. (1) For all purposes, as from the date of the making of an adoption order— (a) the adopted child becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child; and</p>	<p>Section 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.</p>	<p><i>Clause 12 amends Section 15 as follows:</i> <i>By repealing subsection (1) and substituting the following:</i> <u>“(1) Where a person makes an application to the Authority to place a child for adoption and the Authority accepts that application, the Authority</u></p>

<p>(b) the adopted child ceases to be the child of the person who was his parent before the adoption order was made and that person ceases to be the parent of the adopted child, as if the adopted child had been born in lawful wedlock to the adopting parent.</p> <p>(2) The relationship one to another of all persons whether the adopted child, the adopting parent, the kindred, of the adopting parent, the parent before the adopting order was made, the kindred of the former parent or any other person, shall, for all purposes, be determined in accordance with subsection (1).</p> <p>(3) Subsections (1) and (2) do not apply for the purpose of the law relating to incest and the prohibited degrees of marriage to remove any persons from a relationship in consanguinity that, but for this section, would have existed.</p>	<p>(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.</p> <p>(3) Where on an application by the Board, a court is satisfied in the case of each parent or guardian of a child that—</p> <p>(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</p> <p>(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.</p> <p>(4) No application shall be made under subsection (1) unless—</p> <p>(a) it is made with the consent of the parents or guardian of the child, or</p> <p>(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.</p> <p>(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.</p> <p>(6) On the making of an order under this section, parental responsibility for the child becomes that of the Authority.</p>	<p><u>shall apply to the Court for an order declaring that child to be freed for adoption.”:</u></p> <p><i>By repealing subsection (2) and substituting the following subsection:</i></p> <p><u>“(2) Where a child in respect of whom an application is made under subsection (1) cannot be cared for prior to an adoption order being made, the Authority shall take the child into its care in accordance with the Children’s Authority Act and may place the child with a foster parent or in a community residence.”; and</u></p> <p><i>By inserting after subsection (2), the following subsection:</i></p> <p><u>“(2A) Where a child who has been in the care of the Authority, has been declared by the Court to be freed for adoption, the child shall remain in the care of the Authority, which may place the child with a foster parent or in a community residence, until such time as the Authority places the child with suitable adopters.”</u></p>
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	<p>(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.</p>	
<p>Section 16 An adoption order or an interim 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.</p>	<p>Section 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.</p>	<p>Clause 16 is amended by Section 13 as follows: New Section 16 <i>(1) This section and section 25 apply to <u>a</u> former parent who was required to be given an opportunity of making a declaration under section 15(7) but did not do so.</i> <i>(2) Within 14 days following the period <u>of</u> 12 months after the making of the order under section 15, the Authority, unless it has previously by notice to the former parent informed him that an adoption order has been made in respect of the child, shall by notice to the former parent inform him—</i> <i>(a) whether or not an adoption order has been made in respect of the child; and, if not</i> <i>(b) whether the child has his home with a person with whom he has been placed for adoption.</i> <i>(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.</i> <u>(3A) Nothing in this section shall be construed as permitting the Authority to divulge to a former parent, any information except the notifications required under subsections (2) and (3).</u></p>

	<p>(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.</p>	<p><i>(4) If at any time the former parent by notice makes a declaration to the Authority that he prefers not to be involved in future questions concerning the adoption of the child, the Authority shall ensure that the declaration is recorded by the court which made the order under section 15, whereupon the Authority is released from further complying with subsection (3) as respects that former parent.</i></p>
<p>Section 17 17. (1) The Court having jurisdiction to make adoption orders under this Act shall be the High Court or, at the option of the applicant, any Court of summary jurisdiction within the jurisdiction of which either the applicant or the child resides at the date of the application for the adoption order. (2) The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make Rules directing the manner in which applications to the Court may be made for regulating appeals under section 8 and for dealing generally with all matters of procedure and incidental matters arising out of this Act. Such Rules may provide for applications for adoption orders being heard and determined otherwise than in open Court, and where the application is made to a Court of Summary Jurisdiction, for the hearing and determination thereof in a Juvenile Court within the meaning of section 87 of the Children Act.</p>	<p>Section 17 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</p>	<p>Clause 14 amends Section 17 as follows New Section 17 <i>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 Authority shall not place the child for adoption without the leave of the Court. <u>(3) Where the Court revokes an order under section 15, the Court may make such further order as it thinks fit, including an order—</u> (a) to extinguish the parental responsibility given to the Authority under that section; <u>(b) to give parental responsibility to the parents making the application; or—</u> (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;</i></p>

	<p>were married at the time of his birth, to both parents; and</p> <p>(c) to revive—</p> <p>(i) any parental responsibility in respect of the child;</p> <p>(ii) any order of the court giving parental responsibility for the child to a person other than the parent;</p> <p>(iii) any appointment of a guardian in respect of the child, whether made by a court or otherwise.</p> <p>(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—</p> <p>(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</p> <p>(b) the Board is released from complying further with section 16(3) as respects that parent.</p> <p>(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.</p>	<p><i>(ii) any order of the court giving parental responsibility for the child to a person other than the parent or;</i></p> <p><i>(iii) any appointment of a guardian in respect of the child, whether made by a Court or otherwise.</i></p> <p><i>(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—</i></p> <p><i>(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</i></p> <p><i>(b) the Authority is released from complying further with section 16(3) as respects that parent.</i></p> <p><i>(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.</i></p>
Section 22	Section 22 22 (1) Where an application for an adoption order is made in respect of a child, the court	<i>Clause 15 amends the Act by repealing section 22 and substituting with the following New Section 22</i>

	<p>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.</p> <p>(2) In any proceedings under subsection (1) the court shall ensure that the child has legal representation.</p>	<p><u>Where an application for an adoption order is made in respect of a child, the Court shall, before making the order, take into consideration the views and wishes of the child having regard to the age and understanding of the child.”</u></p>
No Section 23	<p>Section 23</p> <p>(1) An adoption order shall not be made in any case where—</p> <p>(a)(i) the applicant is under the age of twenty-five years; and</p> <p>(ii) the applicant is less than twenty-one years older than the child in respect of whom the application is made; or</p> <p>(b) the child has been or is married.</p> <p>(2) The court may, if it thinks fit, make an order where—</p> <p>(a) the applicant is less than twenty-five years of age if the applicant is the parent of the child; or</p> <p>(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</p>	<p><i>Clause 16 repeals Section 23</i></p>
No Section 24	<p>Section 24</p> <p>(1) An adoption order shall not be made—</p> <p>(a) except with the consent of every person</p>	<p><i>Clause 17 amends section 24 as follows</i></p> <p><i>(1) An adoption order shall not be made—</i></p> <p><i>(a) except with the consent of every person</i></p>

	<p>who—</p> <p>(i) is a parent or guardian of the child in respect of whom the application is made; or</p> <p>(ii) has the actual custody of the child;</p> <p>(b) unless in the case of each person mentioned in subsection (1)(a) the court is satisfied that—</p> <p>(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</p> <p>(ii) his consent to the making of the adoption order should be dispensed with on a ground specified in subsection (2).</p> <p>(c) where an order has been made making the child available for adoption under section 15.</p> <p>(2) The grounds specified for the purpose in subsection (1) are that the parent—</p> <p>(a) has abandoned, neglected, or deserted the child;</p> <p>(b) cannot be found or is incapable of giving consent;</p> <p>(c) is withholding his consent unreasonably;</p> <p>(d) has persistently failed without reasonable cause to discharge his parental responsibility to the child;</p> <p>(e) has persistently or seriously ill-treated the child;</p> <p>(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</p> <p>(g) is a person whose consent ought, in the opinion of the court, to be dispensed with.</p>	<p>who—</p> <p>(i) is a parent or guardian of the child in respect of whom the application is made; or</p> <p>(ii) has the actual custody of the child;</p> <p>(b) unless in the case of each person mentioned in subsection (1)(a) the court is satisfied that—</p> <p>(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</p> <p>(ii) his consent to the making of the adoption order should be dispensed with on a ground specified in subsection (2).</p> <p>(c) where an order has been made making the child available for adoption under section 15.</p> <p><u>(2) “Notwithstanding subsection (1), the Court may make an adoption order where the Court find that the parent” —</u></p> <p>(a) has abandoned, neglected, or deserted the child;</p> <p>(b) cannot be found or is incapable of giving consent;</p> <p>(c) is withholding his consent unreasonably;</p> <p>(d) has persistently failed without reasonable cause to discharge his parental responsibility to the child;</p> <p>(e) has persistently or seriously ill-treated the child;</p> <p>(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</p> <p>(g) is a person whose consent ought, in the opinion of the <u>Court</u>, to be dispensed with.</p> <p>(3) An adoption order shall not be made upon the application of one of two spouses without the consent of the other, <u>unless they have separated and are living apart from each other and the separation is likely to be permanent; and</u></p> <p>(4) The <u>Court</u> may dispense with the consent required by this section if it is satisfied that—</p>
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	<p>(3) An adoption order shall not be made upon the application of one of two spouses without the consent of the other.</p> <p>(4) The court may dispense with the consent required by this section if it is satisfied that—</p> <p>(a) the person whose consent is to be dispensed with cannot be found or is incapable of giving consent;</p> <p>(b) the spouses have separated and are living apart and the separation is likely to be permanent.</p> <p>(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.</p>	<p><i>(a) the person whose consent is to be dispensed with cannot be found or is incapable of giving consent;</i></p> <p><i>(b) the spouses have separated and are living apart and the separation is likely to be permanent.</i></p> <p><i>(5) For the purposes of this section a child is <u>abandoned if, in the opinion of the Court</u> the parent has failed to make contact with the child for a period of at least six months.</i></p>
No Section 25	<p>Section 25</p> <p>25. Before making an adoption order, the court shall be satisfied that—</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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</p>	<p><i>Clause 18 amends Section 25 as follows</i></p> <p><i>Before making an adoption order, the Court shall be satisfied that—</i></p> <p><i>(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;</i></p> <p><i>(b) a person who is applying for the order is a fit person to have the custody of the child and of sufficient ability to raise, maintain and educate the child;</i></p> <p><i>(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;</i></p> <p><i>(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</i></p>

	<p>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</p> <p>(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.</p>	<p><i>permanently to deprive him or her of parental rights; and</i></p> <p><i>(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.</i></p>
No Section 27	<p>Section 27</p> <p>27. (1) The court having jurisdiction to make adoption orders under this Act shall be the Family Court.</p> <p>(2) The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules directing the manner in which applications to the court may be made, for regulating appeals under section 14 and for dealing generally with all matters of procedure and incidental matters arising out of this Act.</p> <p>(3) The rules mentioned in subsection (2) may provide for applications for adoption orders to be heard and determined otherwise than in open court.</p>	<p><i>Clause 19 amends section 27 as follows</i></p> <p><i>27. (1) The Court having jurisdiction to make adoption orders under this Act shall be the Family Court.</i></p> <p><i>(2) The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules directing the manner in which applications to the court may be made, for regulating appeals under section 14 and for dealing generally with all matters of procedure and incidental matters arising out of this Act.</i></p> <p><i>(3) <u>Proceedings in respect of an application to free a child for adoption or an application for an adoption order shall be held in camera and not generally published.</u></i></p>
No Section 29	<p>Section 29</p> <p>29.(1) Except with the written consent of the Board, no advertisement shall be published indicating—</p> <p>(a) that the parent or guardian of a child desires to cause the child to be adopted; or</p> <p>(b) that the person desires to adopt a child.</p>	<p><i>Clause 20 amends Section 29(1) as follows:</i></p> <p><i>29.(1) Except with the written consent of the Authority no advertisement shall be published indicating—</i></p> <p><i>(a) that the parent or guardian of a child desires to cause the child to be adopted; or</i></p> <p><i>(b) that <u>a</u> person desires to adopt a child.</i></p>

	<p>(2) No advertisement shall be published indicating that any person is willing to make arrangements for the adoption of a child.</p> <p>(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.</p>	<p><i>(2) No advertisement shall be published indicating that any person is willing to make arrangements for the adoption of a child.</i></p> <p><i>(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.</i></p>
<p>No Section 33</p>	<p>Section 33</p> <p>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.</p> <p>(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.</p> <p>(3) If upon an application for an adoption order there is proved to the satisfaction of the court—</p> <p>(a) the date of the birth of the child; and</p> <p>(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</p>	<p><i>Clause 21 amends Section 33 as follows:</i></p> <p><i>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.</i></p> <p><i>(2) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register-</i></p> <p><i>(a) an entry recording the adoption of the child; and</i></p> <p><i>(b) an entry recording the birth of the child in which each adopter shall be recorded as the parent of the child, and the entries shall be in such forms as the Registrar General may approve.</i></p> <p><i>(3) If, upon an application for an adoption order, it is proved to the satisfaction of the Court that-</i></p> <p><i>(a) the child was born on a particular date; and</i></p> <p><i>(b) the child is the same child to whom any entry in the Register of Births relates, the adoption order shall contain a further direction to the Registrar General to cause the entry of the birth of the child in the Register of Births to be marked with the word "adopted", and to record in the entries referred to in subsection</i></p>

	<p>birth in the manner indicated in the Schedule.</p> <p>(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.</p> <p>(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.</p> <p>(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, or any other Act, in respect of searches in indexes relating to births and deaths kept in the office of the Registrar General.</p> <p>(7) The Registrar General shall, in addition to the Register and the index thereof, keep</p>	<p><i>(2),the date of birth of the child as stated in the adoption order.”;</i></p> <p><i>(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.</i></p> <p><i><u>(5) A certified copy of an entry in the Register under subsection (2)(a) purporting to be signed by the Registrar General shall, without any further or other proof of such entry, where the entry contains a record of the date of the birth of the adopted child, be received as evidence of the adoption and of the date of 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</u></i></p> <p><i><u>(5A) A certified copy of an entry in the Register under subsection (2)(b) purporting to be signed by the Registrar General shall, without any further or other proof of such entry, be received as evidence of the date of the birth of the child to which the same relates in all respects as though it were a certified copy of an entry in the Register of Births.</u></i></p> <p><i><u>(6) The Registrar General shall cause an index of the Register to be made and kept in his office, and no person, other than the adopter of a child or a person authorized in writing, for the purpose, by the adopter or by the Authority, shall be entitled to search such index and to have a certified copy of any entry in the Register in all respects upon, and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Births and Deaths</u></i></p>
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	<p>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.</p> <p>(8) Regulations made by the Registrar General under the Births and Deaths Registration Act may make provision as to the duties to be performed by Superintendent Registrars and Registrars of Births and Deaths in the execution of this Act.</p>	<p><u>Registration Act, or any other Act, in respect of searches in indexes relating to births and deaths kept in the office of the Registrar General.</u></p> <p><u>(7) The Registrar General shall, in addition to the Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary, to record and make traceable the connection between any entry in the Register of Births which has been marked “adopted” pursuant to this Act and any corresponding entry in the Register, and –</u></p> <p><u>(a) those other registers and books shall not be open to public inspection or search; and</u></p> <p><u>(b) the Registrar General shall not, except under an order of the Court, furnish any person with any information contained in, or with any copy or extract from, those registers or books.”.</u></p> <p><i>(8) Regulations made by the Registrar General, under the Births and Deaths Registration Act may make provision as to the duties to be performed by Superintendent Registrars and Registrars of Births and Deaths in the execution of this Act.</i></p>
		<p><u>New Sections 33A, 33B and 33C</u></p> <p><u>33A. Notwithstanding any other written law, where the Registrar General issues a certificate in respect of the birth of an adopted child, the certificate shall bear no overt indication that the child was adopted, except such code as has been approved by the Registrar General to distinguish the type of entry which is being certified.</u></p> <p><u>33B. Where the adopter of an adopted child or a person authorised in writing for the purpose by that adopter, applies to the Registrar General for the issue of a certified copy of an entry under section 33(2) in respect of that child and pays the</u></p>

		<p><u>prescribed fee, the Registrar General shall issue to that adopter or person the certified copy of the entry in the form approved by the Registrar General.</u></p> <p><u>33C. (1) Where an adopted person who is at least eighteen years of age applies to the Registrar General for a certified copy of an entry under section 33(2) in respect of his adoption, and pays the prescribed fee, the Registrar General shall issue to him the certified copy of the entry in the form approved by the Registrar General.</u></p> <p><u>(2) Where an adopted person who is under the age of eighteen years wishes to obtain a certified copy of an entry under section 33(2), he may apply to the Authority to act on his behalf.”</u></p>
No Section 34	<p>Section 34</p> <p>(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.</p> <p>(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</p>	<p><i>Clause 23 repeals and substitutes Section 34</i></p> <p><i>New Section 34</i></p> <p><u>34. (1) An adopted person who is at least eighteen years of age and the record of whose birth is kept by the Registrar General, may make an application in the prescribed manner to the Court 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.</u></p> <p><u>(2) On considering an application under subsection (1), the Court may -</u></p> <p><u>(a) refer the applicant to the Authority for assistance with accessing counselling; or</u></p> <p><u>(b) direct the Registrar General to furnish the applicant with such information as the Court thinks fit.</u></p> <p><u>34A. (1) An adopted person -</u></p>

	<p>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.</p> <p>(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.</p>	<p><u>(a) whose birth record is kept by the Registrar General;</u> <u>(b) who intends to get married; and</u> <u>(c) who pays the prescribed fee.</u></p> <p><u>may make an application in the prescribed manner to the Registrar General to determine if the adopted person and the person they intend to marry are within the prohibited degrees of consanguinity or affinity for the purposes of the Marriage Act.</u></p> <p><u>(2) Where an application is made under subsection (1), the Registrar General may issue to the applicant, a written report indicating whether or not, from the information contained in the registers of birth or other records, the applicant and the person whom he intends to marry may be within the prohibited degrees of consanguinity or affinity for the purposes of the Marriage Act.</u></p> <p><u>(3) Before supplying any information to an applicant under subsection (2), the Registrar General shall inform the applicant that he may access the Authority for assistance with counselling.”</u></p>
No Section 35	<p>Section 35</p> <p>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—</p>	<p>Clause 24 amends Section 35 (1) as follows</p> <p>1) Where a child is, 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 <u>parent, step-parent, guardian or relative of that child unless—</u> <u>(a) an order has been made in respect of that child under section 36; or</u></p>

	<p>(a) an order has been made in respect of that child under section 36; or</p> <p>(b) the requirements of the Emigration (Children) Act are satisfied.</p> <p>(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.</p> <p>(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.</p>	<p><i>(b) the requirements of the Emigration (Children) Act are satisfied.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p>
No Section 36	<p>Section 36</p> <p>(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.</p> <p>(2) Subject to this section, no such order shall be made unless the court—</p> <p>(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</p> <p>(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</p>	<p><i>Clause 25 amends Section 36 as follows</i></p> <p><i>(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 <u>or are likely to be made</u> to be transferred to a person resident abroad.</i></p> <p><i>(2) Subject to this section, no such order shall be made unless the Court—</i></p> <p><i>(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</i></p> <p><i>(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</i></p>

	<p>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.</p> <p>(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.</p> <p>(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.</p>	<p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p>
No Section 37	<p>Section 37</p> <p>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.</p>	<p><i>Clause 26 amends Section 37 as follows</i></p> <p><i>Where a child has been adopted by a national or a resident of Trinidad and Tobago, whether before or after the coming into force of this Act, in any place outside of Trinidad and Tobago according to the law of that place, then for the purposes of this Act and all other written law, the adoption shall have the same effect as an adoption order validly made in accordance with this Act.</i></p>
No Section 38	Section 38	<i>Clause 27 amends Section 38 as follows</i>

	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	<i>Where a person who is not a national or resident of Trinidad and Tobago and who lives outside of Trinidad and Tobago makes an application to the Court to adopt a child in Trinidad and Tobago, before granting an order the Court shall be satisfied that it is in the best interest of the child to grant that order</i>
No Section 39	Section 39 Any notice under this Act may be served by post	<i>Clause 28 amends Section 39 as follows Any notice under this Act may be served by registered post</i>
No Section 40	Section 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	<i>Clause 29 amends Section 40 as follows 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 Authority with a view to the child being adopted, he shall be furnished with a memorandum in the prescribed form explaining in ordinary language the effect, in relation to his rights as a parent or guardian, of the making of an adoption order in respect of the child, and calling attention to this Act and any rules made hereunder relating to the consent of a parent or guardian to the making of such an order; and (ii) that, before so placing the child at the disposition of the Authority, the parent or guardian shall sign a document in the prescribed form verifying that he has read and understood the said memorandum;</i>

	<p>prescribed form verifying that he has read and understood the said memorandum;</p> <p>(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;</p> <p>(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;</p> <p>(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—</p> <p>(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;</p> <p>(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</p> <p>(iii) the committee has considered the prescribed reports;</p> <p>(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;</p>	<p><i>(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 Authority;</i></p> <p><i>(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 Authority;</i></p> <p><i>(d) for securing that no such child shall be delivered into the care and control of an adopter by or on behalf of the Authority until—</i></p> <p><i>(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;</i></p> <p><i>(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</i></p> <p><i>(iii) the committee has considered the prescribed reports;</i></p> <p><i>(e) for making provision for the care and supervision of children who have been placed by their parents or guardians at the disposition of the Authority;</i></p> <p><i>(f) for prescribing anything which, save as is required to be prescribed under section 21, is required to be prescribed under this Act;</i></p> <p><i>(g) for carrying out the purposes of this Act.</i></p> <p><i>(2) In any regulation under this section, the Minister may prescribe for any offence a penalty not exceeding a</i></p>
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	<p>(f) for prescribing anything which, save as is required to be prescribed under section 21, is required to be prescribed under this Act;</p> <p>(g) for carrying out the purposes of this Act.</p> <p>(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.</p>	<p><i>fine of ten thousand dollars or imprisonment for two <u>years.</u></i></p>
<p>No Section 42</p>	<p>Section 42</p> <p>(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.</p> <p>(2) Nothing in this Act shall affect an adoption order made before the commencement of this Act.</p>	<p><i>Clause 30 amends Section 42 as follows</i></p> <p><i>(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 <u>Authority</u> as though it were done under this Act.</i></p> <p><i>(2) Nothing in this Act shall affect an adoption order made before the commencement of this Act.</i></p> <p><u>(3)Any legal proceedings existing against the Adoption Authority referred to in subsection (1) before the commencement of this Act, may be continued on, and after, the commencement of this Act, against the Authority.</u></p>
		<p><i>Clause 31 deletes the Schedule of the previous Act.</i></p>

LEGISLATION MENTIONED IN THIS BILL

- [Adoption of Children Act, Chap 46:03](#)²
- [Immigration Act, Chap 18:01](#)³.
- [Family Law \(Guardianship of Minors, Domicile and Maintenance Act\), Chap 46:08](#)⁴
- [Cohabitation Relationship Act, Chap 45:55](#)⁵
- [Emigration \(Children\) Act, Chap 18:02](#)⁶
- [Medical Board Act, Chap 29:50](#)⁷
- [Children's Authority Act, Chap 46:10](#)⁸
- [Supreme Court of the Judicature Act, Chap 4:01](#)⁹
- [Births and Registration Act, Chap 44:01](#)¹⁰
- [Evidence Act, Chap 7:02](#)¹¹

CONSIDERATIONS

- The Bill provides that no person shall remove a child from the care of an applicant except with leave of the Court.
- The Bill removes the requirement for a child to be legally represented in an adoption application.
- The Bill provides that an adopted child's Birth Certificate shall bear no overt indication that the child was adopted.

² http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/46.03.pdf

³ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/18.01.pdf

⁴ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/46.08.pdf

⁵ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/45.55.pdf

⁶ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/18.02.pdf

⁷ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/29.50.pdf

⁸ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/46.10.pdf

⁹ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/4.01.pdf

¹⁰ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/44.01.pdf

¹¹ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/7.02.pdf

COMPARATIVE LEGISLATION IN OTHER JURISDICTIONS

No.	Country	Name of statute	Remarks
1.	United Kingdom	Adoption and Children Act 2002, C 38 ¹²	An Act to restate and amend the law relating to adoption; to make further amendments of the law relating to children; to amend section 93 of the Local Government Act 2000; and for connected purposes.
2.	New South Wales, Australia	Adoption Act 2000 ¹³	An Act with respect to the adoption of children and access of information relating to an adoption; to repeal the <i>Adoption of Children Act 1965</i> and the <i>Adoption Information Act 1990</i> ; to amend the Births, Deaths and Marriages Registration Act 1995 with respect to registration of adoptions and adopted persons' birth records; to make consequential amendments to other Acts; and for other purposes.
3.	Canada (British Columbia)	Adoption Act (RSBC) 1996, Chap 5 ¹⁴	The purpose of this Act is to provide for new and permanent family ties through adoption, giving paramount consideration in every respect to the child's best interests.
4.	Antigua and Barbuda	The Adoption of Children Act, CAP 9 ¹⁵	The Act provides for the making of adoption orders, terms and conditions on such orders and an Adopted Children Register.
5.	New Zealand	Adoption Act 1955. ¹⁶	An Act to consolidate and amend certain enactments of the Parliament of New Zealand relating to the adoption of children.

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January 15, 2014

¹² <http://www.legislation.gov.uk/ukpga/2002/38/contents>

¹³ http://www.austlii.edu.au/au/legis/nsw/consol_act/aa2000107/

¹⁴ http://www.bclaws.ca/civix/document/id/complete/statreg/96005_01

¹⁵ <http://www.laws.gov.ag/acts/chapters/cap-9.pdf>

¹⁶ <http://www.legislation.govt.nz/act/public/1955/0093/latest/DLM292661.html>