

ARRANGEMENT OF SECTIONS

Section

PART 1 – THE RIGHTS OF THE CHILD

Sub-Part I – Rights of the child and parental duty

1. Definition of child
2. Welfare principle
3. Non-discrimination
4. Right to name and nationality
5. Right to grow up with parents
6. Parental duty and responsibility
7. Right to parental property
8. Right to education and well-being
9. Right to social activity
10. Treatment of the disabled child
11. Right of opinion
12. Protection from exploitative labour
13. Protection from torture and degrading treatment
14. Right to refuse betrothal and marriage
15. Penalty for contravention

Sub-Part II – Care and protection

16. District Assembly to protect children
17. Persons to report child abuse and protection cases
18. Meaning of care and protection
19. Investigation by Department
20. Care order of Family Tribunal
21. Supervision order of Family Tribunal
22. Duties of probation officer and social worker
23. Home visits
24. General provisions on orders
25. Discharge of orders
26. Care order and adoption

PART II – QUASI-JUDICIAL AND JUDICIAL CHILD ADJUDICATION

Sub-Part I – Child Panels

27. Establishment of Child Panels
28. Functions of Child Panels
29. Composition of Child Panel

- 30. Meetings of Child Panel
- 31. Child Panel in civil matters
- 32. Child Panel in criminal matters

Sub-Part II – Family Tribunals

- 33. Family Tribunals
- 34. Composition of Family Tribunal
- 35. Jurisdiction of Family Tribunal
- 36. Family Tribunal sittings
- 37. Procedure at Family Tribunal
- 38. Rights of the child at Family Tribunal
- 39. No publication of information on child

PART III – PARENTAGE, CUSTODY, ACCESS AND MAINTENANCE

Sub – Part I – Parentage

- 40. Application for Parentage
- 41. Evidence of Parentage
- 42. Medical test

Sub-Part II – Custody and Access

- 43. Custody
- 44. Access
- 45. Consideration for custody or access
- 46. Unlawful child removal

Sub-Part III – Maintenance

- 47. Duty to maintain a child
- 48. Application for maintenance order
- 49. Consideration for maintenance orders
- 50. Request for social enquiry report
- 51. Form of maintenance order
- 52. Persons entitled to maintenance order
- 53. Duration of order
- 54. Continuation of maintenance orders in certain cases
- 55. Variation of discharge of orders
- 56. Enforcement of order
- 57. Non-custodial parent to have access to the child

- 58. Duplicity of maintenance applications
- 59. Offences under this part
- 60. Procedure for application
- 61. Waiver of fees

PART IV – FOSTERAGE AND ADOPTION

Sub – Part I - Fosterage

- 62. Person who can foster
- 63. Definition of foster-parent
- 64. Foster-care placement

Sub-Part II – Adoption application

- 65. Jurisdiction and procedure for adoption
- 66. Application for adoption
- 67. Restrictions on making adoptions orders
- 68. Consent of parents and guardians
- 69. Other consent
- 70. Conditions for adoption order
- 71. Interim order
- 72. Knowledge of adoption by child
- 73. Application by non-citizen
- 74. Children previously adopted
- 75. Effect of adoption on parental rights

Sub – Part III – Devolution of property on adoption

- 76. Devolution of property on intestacy
- 77. Testamentary disposition
- 78. Supplementary provisions on intestacy and testamentary disposition

Sub – Part IV – Miscellaneous adoption provisions

- 79. Adoption order and customary law
- 80. Adoption order and citizenship
- 81. Effect of adoption order on fit person order
- 82. Adopted children register
- 83. Offences related to adoption

- 84. Notice to be given to send child abroad
- 85. Inter- country adoption
- 86. Procedure rules for adoption

PART V – EMPLOYMENT OF CHILDREN

Sub-Part I – Child Labour

- 87. Prohibition of exploitative child labour
- 88. Prohibition of child labour at night
- 89. Minimum age for child labour
- 90. Minimum age for light work
- 91. Minimum age for hazardous employment
- 92. Application
- 93. Registration of children and young persons in industrial undertakings
- 94. Offences under this sub-part
- 95. Enforcement in formal sector
- 96. Enforcement in informal sector

Sub-Part II - Apprenticeship

- 97. Act to apply to apprenticeship in formal sector
- 98. Minimum age for apprentices
- 99. Responsibilities of craftsman
- 100. Apprenticeship agreement
- 101. Duties of apprentice
- 102. Release of apprentice
- 103. Resolution of disputes
- 104. Application of Sub-Part I of this Part

PART VI – INSTITUTIONALISED CARE AND MISCELLANEOUS MATTERS

Sub-Part I – Approved residential homes

- 105. Approval of residential homes
- 106. Department to monitor homes
- 107. Power of Minister to give directives to homes
- 108. Inspection
- 109. Admission of children to homes
- 110. Parental responsibility of staff of approved homes
- 111. Power of Family Tribunal to order contribution

- 112. Approved home and adoption
- 113. Regulations and homes
- 114. Offences under this Sub-part

Sub-Part II – Day Care Centres

- 115. Application to operate day care centres
- 116. Inspection
- 117. Bye-laws and guidelines
- 118. Policy directives
- 119. Existing operators
- 120. Offences under this Sub-part

Sub-Part III – Miscellaneous Provisions

- 121. Registration of births
- 122. Determination of age of a child
- 123. Regulations
- 124. Interpretation
- 125. Amendment and repeals
- 126. Savings

SCHEDULE



THE FIVE HUNDRED AND SIXTIETH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE CHILDREN'S ACT, 1998

AN ACT to reform and consolidate the law relating to children, to provide for the rights of the child, maintenance and adoption, regulate child labour and apprenticeship, for ancillary matters concerning children generally and to provide for related matters.

DATE OF ASSENT: 30th December, 1998.

BE IT ENACTED by Parliament as follows –

PART I – THE RIGHTS OF THE CHILD

Sub-Part I – Rights of the child and parental duty

Definition of child

1. For purposes of this Act, a child is a person below the age of eighteen years.

Welfare principle

2. (1) The best interest of the child shall be paramount in any matter concerning a child.

(2) The best interest of the child shall be the primary consideration by any court, person, institution or other body in any matter concerned with a child

Non-discrimination

3. No person shall discriminate against a child on the grounds of gender, race, age, religion, disability, health status, custom, ethnic origin, rural or urban background, birth or other status, socio-economic status or because the child is a refugee.

Right to name and nationality

4. No person shall deprive a child of the right from birth to a name, the right to acquire a nationality or the right as far as possible to know his natural parents and extended family subject to the provisions of Part IV, Sub-Part II of this Act.

Right to grow up with parents

5. No person shall deny a child the right to live with his parents and family and grow up in a caring and peaceful environment unless it is proved in court that living with his parents would –
 - (a) lead to significant harm to the child; or
 - (b) subject the child to serious abuse; or
 - (c) not be in the best interest of the child.

Parental duty and responsibility

6. (1) No parent shall deprive a child his welfare whether –
 - a) The parents of the child are married or not at the time of the child's birth; or
 - b) The parents of the child continue to live together or not.
- (2) Every child has the right to life, dignity, respect, leisure, liberty, health, education and shelter from his parents.
- (3) Every parent has rights and responsibilities whether imposed by law or otherwise towards his child which include the duty to –
 - (a) protect the child from neglect, discrimination, violence, abuse, exposure to physical and moral hazards and oppression;
 - (b) provide good guidance, care, assistance and maintenance for the child and assurance of the child's survival and development;
 - (c) ensure that in the temporary absence of a parent, the child shall be cared for by a competent person and that a child under eighteen months of age shall only be cared for by a person of fifteen years and above

except where the parent has surrendered his rights and responsibilities in accordance with law.

(4) Each parent shall be responsible for the registration of the birth of their child and the names of both parents shall appear on the birth certificate except if the father of the child is unknown to the mother.

Right to parental property

7. No person shall deprive a child of reasonable provision out of the estate of a parent whether or not born in wedlock.

Right to education and well-being

8. (1) No person shall deprive a child access to education, immunisation, adequate diet, clothing, shelter, medical attention or any other thing required for his development.

(2) No person shall deny a child medical treatment by reason of religious or other beliefs.

Right to social activity

9. No person shall deprive a child the right to participate in sports, or in positive cultural and artistic activities or other leisure activities.

Treatment of the disabled child

10. (1) No person shall treat a disabled child in an undignified manner.

(2) A disabled child has a right to special care, education and training wherever possible to develop his maximum potential and be self-reliant.

Right of opinion

11. No person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being, the opinion of the child being given due weight in accordance with the age and maturity of the child.

Protection from exploitative labour

12. No person shall subject a child to exploitative labour as provided under section 87 of this Act.

Protection from torture and degrading treatment

13. (1) No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanises or is injurious to the physical and mental well-being of a child.

(2) No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child by reason of tender age or otherwise is incapable of understanding the purpose of the correction.

Right to refuse betrothal and marriage

- 14.** (1) No person shall force a child –
(a) to be betrothed;
(b) to be the subject of a dowry transaction; or
(c) to be married.

(2) The minimum age of marriage of whatever kind shall be eighteen years.

Penalty for contravention

- 15.** Any person who contravenes a provision of this Sub-Part commits an offence and is liable on summary conviction to a fine not exceeding ₦5 million or to a term of imprisonment not exceeding one year or to both.

Sub-Part II – Care and protection

District Assembly to protect children

- 16.** (1) A District Assembly shall protect the welfare and promote the rights of children within its area of authority and shall ensure that within the district, governmental agencies liaise with each other in matters concerning children.

(2) The Social Welfare and Community Development Department of a District Assembly referred to in this Act as “the Department” shall investigate cases of contravention of childrens rights.

Persons to report child abuse and protection cases

- 17.** Any person with information on –
(a) child abuse; or
(b) a child in need of care and protection

shall report the matter to the Department.

Meaning of care and protection

- 18.** (1) For purposes of this Act, a child is in need of care and protection if the child –
(a) is an orphan or is deserted by his relatives;
(b) has been neglected or ill-treated by the person who has the care and custody of the child;
(c) has a parent or guardian who does not exercise proper guardianship;
(d) is destitute;
(e) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child;
(f) is wandering and has no home or settled place of abode or visible means of subsistence;

- (g) is begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise, or is found in any street, premises or place for the purpose of begging or receiving alms;
- (h) accompanies any person when that person is begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise;
- (i) frequents the company of any reputed thief or reputed prostitute;
- (j) is residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of or affect the morality of the child;
- (k) is a person in relation to whom an offence has been committed or attempted under section 314 of the Criminal Code, 1960 (Act 29) on slave dealing;
- (l) is found acting in a manner from which it is reasonable to suspect that he is, or has been, soliciting or importuning for immoral purposes;
- (m) is below the age of criminal responsibility under the Criminal Code, 1960 (Act 29) and is involved in an offence other than a minor criminal matter, or
- (n) is otherwise exposed to moral or physical danger.

(2) A child shall not be considered to come within the scope of paragraphs (i) and (j) of subsection (1) if the only reputed prostitute that the child associates with is his mother and if it is proved that she exercises proper guardianship and care to protect the child from corrupt influences.

Investigation by Department

- 19.** (1) If the Department has reasonable grounds to suspect child abuse or a need for care and protection, it shall direct a probation officer or social welfare officer accompanied by the police to enter and search the premises where the child is kept to investigate.
- (2) The Department shall direct the probation officer or the social welfare officer to refer the matter to a Child Panel established under section 27 of this Act if the child is not in immediate need of care and protection.
- (3) If after investigation it is determined that the child has been abused or is in need of immediate care and protection the Department shall direct a probation officer or social welfare officer accompanied by the police to remove the child to a place of safety for a period of not more than seven days.

(4) The child shall be brought before a Family Tribunal by the probation officer or social welfare officer before the expiry of the seven day period for an order to be made.

(5) Until the Family Tribunal determines the order, the Family Tribunal may commit the child to an approved residential home or to the care of a probation officer, social welfare officer or other suitable person.

Care order of Family Tribunal

20. (1) A Family Tribunal may issue order to the Department on an application by a probation officer or social welfare officer under section 19(4).

(2) The care order shall remove the child from a situation where he is suffering or likely to suffer significant harm and shall transfer the parental rights to the Department.

(3) The probation officer or social welfare officer shall take custody of the child and shall determine the most suitable place for the child which may be –

(a) an approved residential home

(b) with an approved fit person; or

(c) at the home of a parent, guardian or relative.

(4) The maximum duration of a care order shall be three years or until the child attains eighteen years which ever is earliest and the Family Tribunal may make an interim order or may vary the order.

(5) The Family Tribunal may make a further order that the parent, guardian or other person responsible for the child shall pay for the cost of maintaining the child.

(6) A Family Tribunal shall not designate the manager of an institution as an approved fit person to whom the care of a child can be entrusted unless the institution is one which the Minister responsible for Social Welfare has approved by notice published in the *Gazette* or the institution is assigned that function by or under an Act of Parliament.

Supervision order of Family Tribunal

21. (1) A Family Tribunal may issue a supervision order to the Department on an application by a probation officer or social welfare officer under section 19(4).

(2) The supervision order shall be aimed at preventing any significant harm being caused to a child whilst he remains at his family home in the custody of his parent, guardian or relative.

(3) The supervision order shall place a child under the supervision of the probation officer or social welfare officer while he remains in the custody of his parent, guardian or relative.

(4) The maximum duration for a supervision order shall be one year or until the child attains eighteen years.

Duties of probation officer and social worker

22. The duties of a probation officer or social welfare officer with respect to a care or supervision order are to –
- (a) advise and help the child and his family;
 - (b) take reasonable steps to ensure that the child is not subjected to harm;
 - and
 - (c) hold regular reviews to plan for the future of the child.

Home visits

23. A probation officer or social welfare officer shall be permitted by a parent, guardian or relative of the child to visit the child at his family home.

General provisions on order

24. (1) A child who contravenes an order from the Family Tribunal and runs away may be apprehended without warrant by the police and returned to the place of the care or supervision order.
- (2) The Family Tribunal may make another order where the child has run away in order to place the child elsewhere if the approved fit person is not willing to take the child.

Discharge of orders

25. A care or supervision order may be discharged in the best interest of the child by the Family Tribunal on the application of –
- (a) the child;
 - (b) a probation officer;
 - (c) a social welfare officer; or
 - (d) a parent, guardian or relative of the child.

Care order and adoption

26. A child under a care order whose parent, guardian or relative does not show an interest in the welfare of the child within a period stipulated by a Family Tribunal may be put up for adoption.

PART II – QUASI-JUDICIAL AND JUDICIAL CHILD ADJUDICATION

Sub-Part I – Child Panels

Establishment of Child Panels

27. There shall be established in each district such number of Child Panels as the District Assembly may consider necessary.

Functions of Child Panels

28. A Child Panel shall have non-judicial functions to mediate in criminal and civil matters which concern a child prescribed under this Act.

Composition of Child Panel

29. (1) A child Panel shall consist of the following persons in the relevant district –

- (a) the Chairman of the Social Services Sub-Committee of a District Assembly who shall be the chairman;
- (b) a member of a women's organisation;
- (c) a representative of the Traditional Council;
- (d) the district social worker, who shall be the secretary;
- (e) a member of the Justice and Security Sub-Committee of the District Assembly; and
- (f) two other citizens from the community of high moral character and proven integrity one of whom shall be an educationalist.

(2) The members of a Child Panel shall be appointed by the Minister.

(3) The tenure of office of a Child Panel shall be the same as that of the District Assembly.

Meetings of Child Panel

30. (1) A Child Panel shall meet as often as may be necessary except that a Child Panel shall meet at least once in every three months.

(2) The quorum at any meeting of a Child Panel shall be four and in the absence of the Chairman shall be chaired by a member elected by the members present from their number.

(3) Any agreement made between the parties shall be recorded by the secretary to the Child Panel.

(4) Any person with a significant interest in a matter before a Child Panel may be invited to attend and participate in its deliberations.

(5) A Child Panel shall permit a child to express his opinion and participate in any decision which affects the child's well being commensurate with the level of understanding of the child concerned.

(6) Except as otherwise provided in this Sub-Part a Child Panel shall regulate the procedure at its meetings.

Child Panel in civil matters

31. A Child Panel may mediate in any civil matter concerned with the rights of the child and parental duties.

Child Panel in criminal matters

32. (1) A Child Panel shall assist in victim-offender mediation in minor criminal matters involving a child where the circumstances of the offence are not aggravated.

(2) A Child Panel shall seek to facilitate reconciliation between the child and any person offended by the action of the child

(3) A child appearing before a Child Panel shall be cautioned as to the implications of his action and that similar behavior may subject him to the juvenile justice system.

(4) A Child Panel may decide to impose a community guidance order on a child with the consent of the parties concerned in the matter.

(5) A community guidance order means placing the child under the guidance and supervision of a person of good standing in the local community for a period not exceeding six months for purposes of his reform.

(6) A Child Panel may in the course of mediation propose an apology, restitution to the offended person or service by the child to the offended person.

Sub-Part II – Family Tribunals

Family tribunals

33. (1) There shall be Family Tribunals which shall exercise the jurisdiction provided under section 35 and any other provisions of this Act.

(2) Any reference to a Family Tribunal in this Act shall be construed to mean a Community Tribunal established under the Courts Act, 1993 (Act 459).

Composition of Family Tribunal

34. A Family Tribunal shall be duly constituted by a panel consisting of a Chairman and not less than two or more than four other members including a social welfare officer appointed by the Chief Justice on the recommendation of the Director of Social Welfare.

Jurisdiction of Family Tribunal

35. A Family Tribunal shall have jurisdiction in matters concerning parentage, custody, access and maintenance of children and shall exercise such other powers as are conferred on it by this Act or under any other enactment.

Family Tribunal sittings

36. (1) A Family Tribunal shall sit either in a different building or room from that in which sittings of other courts are held, or on different days from those on which sittings of other courts are held and no person shall be present at any sitting of a Family Tribunal except –

(a) members and officers of the Family Tribunal;

(b) parties to the case before the Family Tribunal, their counsel, witnesses and other persons directly concerned in the case;

- (c) the parent or guardian of the child before the Family Tribunal;
- (d) probation and social welfare officers; and
- (e) any other person whom the Family Tribunal authorises to be present.

(2) The Chairman of a Family Tribunal shall arrange for its sitting as often as possible to dispose of cases expeditiously.

Procedure at Family Tribunal

37. The proceedings at a Family Tribunal shall be as informal as possible and shall be by enquiry and not by adversarial procedures.

Rights of the child at Family Tribunal

38. (1) A child shall have a right to legal representation at a Family Tribunal.

(2) A child shall have a right to give an account and express an opinion at a Family Tribunal.

(3) A child's right to privacy shall be respected throughout the proceedings at a Family Tribunal.

(4) The right of appeal shall be explained to the child, guardian and parents.

No publication of information on child

39. (1) No person shall publish any information that may lead to the identification of a child in any matter before a Family Tribunal except with the permission of the Family Tribunal.

(2) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding ₦5 million or imprisonment for a term not exceeding one year or to both.

PART III – PARENTAGE, CUSTODY, ACCESS AND MAINTENANCE

Sub-Part I – Parentage

Application for parentage

40. (1) The following persons may apply to a Family Tribunal for an order to confirm the parentage of a child –

- (a) the child;
- (b) the parent of a child;
- (c) the guardian of a child;
- (d) a probation officer;
- (e) a social welfare officer; or
- (f) any other interested person.

- (2) The application to the Family Tribunal may be made –
- (a) before the child is born; or
 - (b) within three years after the death of the father or mother of a child; or
 - (d) before a child is eighteen years of age or after the child has attained that age with special leave of the Family Tribunal.

Evidence of parentage

41. The following shall be considered by a Family Tribunal as evidence of parentage

–

- (a) the name of the parent entered in the register of births;
- (b) performance of customary ceremony by the father of the child;
- (c) refusal by the parent to submit to a medical test;
- (d) public acknowledgement of parentage; and
- (e) any other matter that the Family Tribunal may consider relevant.

Medical test

42. The Family Tribunal may order the alleged parent to submit to a medical test and the Tribunal shall on the basis of the evidence before it make such order as it considers appropriate.

Sub-Part II – Custody and Access**Custody**

43. A parent, family member or any person who is raising a child may apply to a Family Tribunal for custody of the child.

Access

44. A parent, family member or any person who has been caring for a child may apply to a Family Tribunal for periodic access to the child.

Considerations for custody or access

45. (1) A Family Tribunal shall consider the best interest of the child and the importance of a young child being with his mother when making an order for custody or access.

(2) Subject to subsection (1) a Family Tribunal shall also consider –

- (a) the age of the child;
- (b) that it is preferable for a child to be with his parents except if his rights are persistently being abused by his parents;
- (c) the views of the child if the views have been independently given;

- (d) that it is desirable to keep siblings together;
- (e) the need for continuity in the care and control of the child; and
- (f) any other matter that the Family Tribunal may consider relevant.

46. Unlawful child removal –

No person shall unlawfully remove a child from another person who has the lawful custody of the child.

Sub-Part III – Maintenance

47. Duty to maintain a child –

- (1) A parent or any other person who is legally liable to maintain a child or contribute towards the maintenance of the child is under a duty to supply the necessaries of health, life, education and reasonable shelter for the child.
- (2) For the purpose of this section, education means basic education.

48. Application for maintenance order –

- (1) The following persons who have custody of a child may apply to a Family Tribunal for a maintenance order for the child –
 - (a) a parent of the child;
 - (b) the guardian of the child; or
 - (c) any other person.
- (2) The following may also apply to a Family Tribunal for a maintenance order –
 - (a) the child by his next friend;
 - (b) a probation officer;
 - (c) a social welfare officer; or
 - (d) the Commission on Human Rights and Administration Justice.
- (3) The application for maintenance may be made against any person who is liable to maintain the child or contribute towards the maintenance of the child.

49. Considerations for maintenance orders –

A Family Tribunal shall consider the following when making a maintenance order –

- (a) the income and wealth of both parents of the child or of the person legally liable to maintain the child;
- (b) any impairment of the earning capacity of the person with a duty to maintain the child;

- (c) the financial responsibility of the person with respect to the maintenance of other children;
- (d) the cost of living in the area where the child is resident;
- (e) the rights of the child under this Act; and
- (f) any other matter which the Family Tribunal considers relevant.

Request for social enquiry report

50. (1) A Family Tribunal may request that a probation officer or social welfare officer prepare a social enquiry report on the issue of maintenance before it for consideration.

(2) The Family Tribunal shall in making any order consider the social enquiry report prepared by the probation officer or social welfare officer.

Form of maintenance order

51. (1) A Family Tribunal may award maintenance to the mother of a child whether married to the father or not where the father has been identified, and the maintenance shall include the following –

- (a) medical expenses for the duration of her pregnancy, delivery or death of the child;
- (b) a periodic allowance for the maintenance of the mother during her period of pregnancy and for a further period of nine months after the delivery of the child; and
- (c) the payment of a reasonable sum to be determined by the Family Tribunal for the continued education of the mother if she is a child herself.

(2) A Family Tribunal may order a periodic payment or lump sum payment for the maintenance of a child and the earnings or property of the person liable may be attached.

(3) The attachment order should be applicable in all cases of failure to pay maintenance.

(4) When considering an application for maintenance, a Family Tribunal may make a maintenance order which it considers reasonable for any child in the household.

(5) A Family Tribunal may make an order for arrears of maintenance against any person liable to pay the maintenance.

Persons entitled to maintenance order

52. (1) Any person who has custody of a child who is the subject of a maintenance order is entitled to receive and administer the maintenance order of the Family Tribunal.

(2) If the parent, guardian or whoever has custody of the child should cease to be a fit person, the Family Tribunal of the area where the child is

resident may appoint another person to have custody of the child and administer the maintenance order and that person shall act as if originally appointed by the Family Tribunal.

Duration of order

53. (1) A maintenance order issued by a Family Tribunal shall expire when the child attains the age of eighteen years or dies before that age.

(2) A maintenance order shall lapse before the child attains the age of eighteen years if before that age the child is gainfully employed.

Continuation of maintenance orders in certain cases

54. (1) Notwithstanding section 53 a Family Tribunal may continue a maintenance order after a child has attained eighteen years if the child is engaged in a course of continuing education or training after that age.

(2) An application under this section may be brought by a parent of the child, any person who has the custody of the young person or the young person concerned.

Variation or discharge of orders

55. A Family Tribunal may if satisfied vary or discharge a maintenance order on the application of a parent, the person who has the custody of the child or young person or any other person legally liable to maintain the child.

Enforcement of order

56. An action may be brought by any person to enforce a maintenance order thirty days after the order is made or due.

Non-custodial parent to have access to child

57. A non-custodial parent in respect of whom an application is made to a Family Tribunal for an order of parentage, custody, access or maintenance under this Part shall have access to the child who is the subject of the order.

Duplicity of maintenance applications

58. The provisions of this Act are subject to the Matrimonial Causes Act, 1971 (Act 367) and no action may be brought for a maintenance order if an application for maintenance is pending in matrimonial proceedings.

Offences under this Part

59. Any person who –

(a) unlawfully removes a child from another person who has lawful custody of the child contrary to section 46; or

- (b) fails to supply the necessities of health, life, education, and reasonable shelter for a child when legally liable to do so contrary to section 47; or
 - (c) brings an action for a maintenance under this Part while an application for maintenance is pending in matrimonial proceedings
- commits an offence and is liable on summary conviction to a fine not exceeding €2 million or a term of imprisonment not exceeding six months or to both.

60. Procedure for application –

The forms to be used and the procedure for applications under this Part shall be provided for by regulations made under this Act.

61. Waiver of fees –

The Chief Justice may by legislative instrument waive part or all of the filing fees or other fees payable for an application under this Part.

PART IV – FOSTERAGE AND ADOPTION

Sub-Part I – Fosterage

62. Person who can foster –

Any person above the age of twenty-one years of high moral character and proven integrity may be a foster-parent to a child.

63. Definition of foster-parent –

A foster parent is a person who is not the parent of a child but is willing to undertake the care and maintenance of the child.

64. Foster-care placement –

(1) Where –

- (a) a child has been committed to an approved residential home under a care order;
- (b) a recommendation has been made by a probation officer or social welfare officer that an approved residential home is the most suitable place for a child; or
- (c) a child has been placed in an approved residential home by any person, a committee comprising a probation officer, social welfare officer, person in charge of the approved residential home and two other people from the community with interest in the welfare of children selected by the Department may place the child with a foster parent.

- (2) An application to foster a child shall otherwise be made to a probation officer, social welfare officer or to the person in charge of the approved residential home who shall forward the application to the Department.
- (3) A foster-parent in whose care a child is placed or committed shall have the same responsibilities in respect of the child's maintenance as the parent of the child while the child remains in his care.
- (4) A foster-parent is liable for contravention of any of the provision under Part I of this Act.
- (5) The Minister may by legislative instrument make regulations on fosterage.

Sub-Part II – Adoption application

65. Jurisdiction and procedure for adoption –

An application for an adoption order may be made to the High Court, Circuit Court or to any Family Tribunal within the jurisdiction where the applicant or the child resides at the date of the application.

66. Application for adoption –

- (1) An application for an adoption order may be made jointly by a husband and his wife to adopt a child.
- (2) An application for an adoption order may be made by the mother or father of the child alone or by either of them jointly with a spouse.
- (3) An application for an adoption order may be made by a single person subject to the provisions of this Sub-Part except that this shall only apply to a citizen of Ghana and with due regard to the best interest of the child.

67. Restrictions on making adoption orders –

- (1) An adoption order shall not be made unless the applicant or, in the case of a joint application, one of the applicants –
 - (a) is twenty-five years of age and is at least twenty-one years older than the child; or
 - (b) is a relative of the child and is twenty-one years of age.
- (2) A male applicant shall only be granted an adoption order if the application is in respect of his son or the court is satisfied that special circumstances warrant the order.
- (3) An adoption order shall not be made for a child unless –
 - (a) the applicant and the child reside in Ghana but this shall not apply if the applicant is a citizen of Ghana resident abroad;
 - (b) the child has been continuously in the care and possession of the applicant for at least three consecutive months immediately preceding the date of the order; and

- (c) the applicant has notified the Department of his intention to apply for an adoption order for the child at least three months before the date of the order.
- (4) Except as provided under section 66 an adoption order shall not be made to authorise more than one person to adopt a child.

Consent of parents and guardians

68. (1) An adoption order shall only be made with the consent of the parents or guardian of the child.

(2) The court may dispense with the consent of any parent or guardian of the child if satisfied that the parent or guardian has neglected or persistently illtreated the child, or that the person cannot be found or is incapable of giving consent or that the consent is unreasonably withheld.

(3) Any consent under this section may be given without the knowledge of the identity of the applicant for the order and where the consent is subsequently withdrawn only because the identity of the applicant was not known, the consent shall be considered to have been unreasonably withheld.

(4) Any parent or guardian of a child the subject of an application for adoption who has given consent for the adoption order shall not be entitled to remove the child from the care and possession of the applicant except with the permission of the court and in the best interest of the child.

Other consent

69. (1) The court may require the consent of any person for an adoption order if it considers that the person has any rights or obligations in respect of the child such as under an agreement, court order or under customary law.

(2) Subject to subsection (2) of section 66, where a married person is the sole applicant, the court may require the consent of the spouse of that person before the adoption order is made.

Conditions for adoption order

70. (1) Before a court makes an adoption order it shall be satisfied that –

- (a) the consent required under this Sub-Part for the adoption order has been obtained and that the parent or guardian of the child understands that the effects of the adoption order will mean permanent deprivation of parental rights;
- (b) it is in the best interest of the child and that the wishes of the child have been considered if the child is capable of forming an opinion;
- (c) if the child is at least fourteen years of age, his consent to the adoption has been obtained unless it is impossible for the child to express an opinion; and

(d) the applicant has not received or agreed to receive any payment and that no person has made or agreed to make any payment or given or agreed to give any reward to the applicant for the adoption except such as the court may order.

(2) The court may impose conditions when granting an adoption order and may require the applicant to enter a bond to make such provision in respect of the child as the court considers necessary.

(3) The adoption order shall include the following particulars the –

- (a) date and place of birth of the child;
- (b) name, gender and surname of the child before and after adoption;
- (c) name, surname, address, citizenship and occupation of the adopter; and
- (d) date of the adoption order,

unless the court directs otherwise.

Interim order

71. (1) Subject to the provisions of this section, the court may postpone the determination of the application and make an interim order giving the custody of the child to the applicant for a period not exceeding two years by way of probation and may attach such terms including provision for the maintenance, education and supervision of the child as it thinks fit.

(2) When making an interim order the court shall impose conditions that –
(a) the child shall be under the supervision of a probation officer or a social welfare officer, and
(b) the child shall not be taken out of Ghana without the permission of the court.

(3) The consent and the power to dispense with consent shall be the same for an interim order of adoption as for an adoption order.

(4) No interim order shall be made unless section 67 (3) has been complied with.

(5) An interim order shall not be considered to be an adoption order under this Sub-Part.

Knowledge of adoption by child

72. (1) An adoptive parent shall inform the adopted child of the fact that the child is adopted and his parentage but this disclosure shall only be made if it is in the best interest of the child and if the child is at least fourteen years of age.

(2) No person other than the adoptive parent shall disclose adoption to the adopted child.

(3) Any person who contravenes this provision commits an offence and is liable on summary conviction to a fine not exceeding ₵2 million or to a term of imprisonment not exceeding six months or to both.

73. Application by non-citizen –

In an application for adoption by an applicant who is not a citizen of Ghana or where there is a joint application and one applicant is not a citizen of Ghana, the court shall make an interim order for a period of not less than two years and shall postpone the determination of the application.

74. Children previously adopted –

An adoption order or an interim order may be made for a child who has already been adopted and the adopter under the previous adoption shall, if alive, be considered as the parent or guardian of the child for the purpose of the subsequent adoption.

75. Effect of adoption on parental rights –

- (1) When an adoption order is made-
 - (a) the rights, duties, obligations and liabilities including those under customary law of the parents of the child or of any other person connected with the child of any nature whatsoever shall cease; and
 - (b) the adopter of the child shall assume the parental rights, duties, obligations and liabilities of the child with respect to custody, maintenance and education as if the child were born to the adopter.
- (2) Where an adoption order is made jointly to a husband and wife, they shall assume the parental responsibilities jointly and the child shall relate to them as parents as if born naturally by them as husband and wife.

Sub-Part III – Devolution of property on adoption

76. Devolution of property on intestacy –

- (1) Where an adopter dies intestate, his property shall devolve in all respects as if the adopted child is the natural child of the adopter.
- (2) For the avoidance of doubt an adopted child is not entitled to inherit from his natural parents on intestacy.

77. Testamentary disposition –

- (1) In a testamentary disposition of property, whether or not in writing made after the date of an adoption order –
 - (a) any reference whether express or implied to the child of the adopter shall unless the contrary intention appears be constructed as a reference to the adopted child;
 - (b) where a disposition made by the adopter prior to the adoption order makes no provision for the adopted child, the adopted child may apply to court to vary the disposition to provide for the adopted child from the estate of the adopter;

- (c) any reference to a child of the adopted child's natural parents in a will shall not be construed as including a reference to the adopted child unless the contrary intention appears.
 - (d) Any reference to a person related to the adopter shall unless the contrary intention appears be construed as a reference to the person as if he were the relative of the child who is adopted.
- (2) A disposition by will executed before the date of the adoption order shall not be treated for the purpose of this section as if made after that date by a codicil giving retrospective effect to the will.

78. Supplementary provisions on intestacy and testamentary disposition –

- (1) The administrators or executors of an estate may distribute the estate of a deceased person to persons entitled under the estate without incurring any liability where at the time of the distribution they had no notice of an adoption order by virtue of which the adopted person is to benefit under the estate but this shall not prejudice the right of any entitled person to trace the property except against a purchaser in good faith.
- (2) The previous adoption order of a child that has been adopted for a second time shall be disregarded for the purpose of devolution of property on the death of the previous adopter.

Sub-Part IV – Miscellaneous adoption provisions

79. Adoption order and customary law –

- (1) An adopted child shall be subject to customary law as if he were the natural child of the adopter only if the adopter is subject to customary law.
- (2) Where there is joint adoption by husband and wife references to the adopter in this section shall be taken as a reference to the husband and wife.

80. Adoption order and citizenship –

- (1) A child need not be a citizen of Ghana to be adopted.
- (2) A child of not more than sixteen years of age neither of whose parents is a citizen of Ghana shall be a citizen of Ghana if adopted by a citizen of Ghana.

81. Effect of adoption order on fit person order –

Where an adoption order is made in respect of a child under a fit person care order of a Family Tribunal, the fit person care order shall cease to apply.

82. Adopted Children Register –

- (1) The Registrar-General shall maintain at his office an Adopted Children Register in which shall be recorded particulars of the adoption order or interim order as the court may direct to be made under this Part.

- (2) Notwithstanding the provision made in any regulations under the Adoption Act, 1962(Act 104), every adoption order or interim order made by a court shall be served on the Registrar-General by the registrar of the court concerned within 30 days of the making of the order.
- (3) The Registrar-General may by executive instrument make rules with respect to the Adopted Children Register particularly rules –
 - (a) for the admission in evidence of a certified copy of an entry in the Adopted Children Register;
 - (b) as to searches in that Register and the fees to be charged for service in connection with that Register.
- (4) The Registrar-General shall keep other records that relate to entries in the Register of Births on adoption together with entries in the Adopted Children Register but these records shall not be available to the public and shall not be given to any person except under a court order.

Offences related to adoption

- 83.** (1) No person shall give any payment or reward in respect of an adoption order except with approval of the court.
- (2) No person shall receive any payment or reward in respect of any arrangement that may or may not lead to an adoption order.
 - (3) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding ₵5 million or to a term of imprisonment not exceeding one year or to both.

Notice to be given to send child abroad

- 84.** (1)The Department shall be notified by the adopter when the adopted child is being sent out of the country permanently after the adoption order has been made by the court.
- (2)This notice shall be given to the Department 30 days before the departure of the adopter and the adopted child from the country.
 - (3)Any person who contravenes this provision commits an offence and is liable on summary conviction to a fine not exceeding ₵2 million or to a term of imprisonment not exceeding six months or to both.

Inter-country adoption

- 85.** (1) Subject to the provisions of this Part, the Department may investigate an application for inter-country adoption as an alternative means of child care, if a child cannot be placed in a foster or and adoptive family in Ghana or cannot in any suitable manner be cared for in Ghana.
- (2)A court may grant an inter-country adoption order if it is in the best interest of the child.

Procedure rules for adoption

86. (1) For the purpose of adoption applications, the Rules of Court Committee may by constitutional instrument make rules for the procedure of adoption.

(2) The rules shall provide for -

- (a) the proceedings to be held in camera except under exceptional circumstances;
- (b) the admission of documentary evidence relating to the consent required for the order;
- (c) requiring a probation officer or social welfare officer to represent the interest of the child in proceedings relating to an adoption order or an interim order;
- (d) requiring a probation officer or social welfare officer to prepare a social enquiry report to assist the court to determine whether the adoption order is in the best interest of the child or not; and
- (e) any other matter that the Committee may determine.

(3) For the purposes of this Part “court” means the High Court, Circuit Court and Family Tribunal within the jurisdiction where the applicant or the child resides at the time of the application.

PART V – EMPLOYMENT OF CHILDREN

Sub-Part I – Child Labour

Prohibition of exploitative child labour

87. (1) No person shall engage a child in exploitative labour.

(2) Labour is exploitative of a child if it deprives the child of its health, education or development.

Prohibition of child labour at night

88. (1) No person shall engage a child in night work.

(2) Night work constitutes work between the hours of eight o'clock in the evening and six o'clock in the morning.

Minimum age for child labour

89. The minimum age for admission of a child to employment shall be fifteen years.

Minimum age for light work

90. (1) The minimum age for the engagement of a child in light work shall be thirteen years.

(2) Light work constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work.

91. Minimum age for hazardous employment –

- (1) The minimum age for the engagement of a person in hazardous work is eighteen years.
- (2) Work is hazardous when it poses a danger to the health, safety or morals of a person.
- (3) Hazardous work includes –
 - (a) going to sea;
 - (b) mining and quarrying;
 - (c) portorage of heavy loads;
 - (d) manufacturing industries where chemicals are produced or used;
 - (e) work in places where machines are used; and
 - (f) work in places such as bars, hotels and places of entertainment where a person may be exposed to immoral behavior.

92. Application –

For the avoidance of doubt, this Sub-Part shall apply to employment in the formal and informal sector.

93. Registration of children and young persons in industrial undertakings –

- (1) An employer in an industrial undertaking shall keep a register of the children and young persons employed by him and of the dates of their births if known or of their apparent ages if their dates of birth are not known.
- (2) An industrial undertaking is an undertaking other than one in commerce or agriculture and includes –
 - (a) mines, quarries and other works for the extraction of minerals from the earth;
 - (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adopted for sale, broken up or demolished, or in which materials are transformed including undertakings engaged in ship building or in the generation, transformation or transmission of electricity or motive power of any kind;
 - (c) undertakings engaged in the transport of passengers or goods by road or rail including the handling of goods at docks, quays, wharves, warehouses and airports.

94. Offences under this Sub-Part –

- (1) Any person who contravenes the provisions of this Sub-Part commits an offence and is liable on summary conviction to a fine not exceeding ₪10 million or to imprisonment for a term not exceeding two years or to both.
- (2) Notwithstanding subsection (1) of this section, any person who contravenes section 93 (1) commits an offence and is liable on conviction to a fine not exceeding ₪500,000.00.

95. Enforcement in formal sector –

- (1) A district labour officer shall carry out any enquiry he may consider necessary in order to satisfy himself that the provisions of this Sub-Part with respect to labour by children and young persons in the formal sector are being strictly observed.
- (2) For purposes of this section any person may be interrogated by a district labour officer.
- (3) If a district labour officer is reasonably satisfied that the provisions of this Sub-Part are not being complied with he shall report the matter to the police who shall investigate the matter and take the appropriate steps to prosecute the offender.

96. Enforcement in the informal sector –

- (1) The Social Services Sub-Committee of a District Assembly and the Department shall be responsible for the enforcement of the provisions of this Sub-Part in the informal sector.
- (2) For purposes of this section any person may be interrogated by a member of the Social Services Sub-Committee or by a member of the Department.
- (3) If the member of the Social Services Sub-Committee or the Department is reasonably satisfied that the provision of this Sub-Part are not being complied with he shall report the matter to the police who shall investigate the matter and take the appropriate steps to prosecute the offender.
- (4) Where the offender is a family member of the child whose rights are being infringed under this Sub-Part, the Social Services Sub-Committee or the Department shall request a probation officer or social welfare officer to prepare a social enquiry report on the matter.
- (5) The social enquiry report prepared under subsection (4) of this section shall be considered by the police before any action is taken against the offender.

Sub-Part II – Apprenticeship

97. Act to apply to apprenticeship in the informal sector –

This Act applies to child apprentices in the informal sector.

Minimum age for apprentices

98. The minimum age at which a child may commence an apprenticeship with a craftsman is fifteen years or after completion of basic education.

Responsibilities of craftsman

99. The responsibilities of a craftsman towards an apprentice under his care shall be as follows to –

- (a) train and instruct the apprentice in a trade to the best of the ability, skill and knowledge of the craftsman and to the best ability of the apprentice or cause the apprentice to be trained in a trade under the supervision of the craftsman;
- (b) be responsible for any harm caused to the apprentice in the course of his training;
- (c) provide food for the apprentice unless otherwise agreed;
- (d) provide a safe and healthy environment for the apprentice;
- (e) be responsible for the moral training of the apprentice; and
- (f) protect the best interest of the apprentice generally.

Apprenticeship agreement

100. (1) The parent, guardian or relative of an apprentice shall enter into an apprenticeship agreement with the craftsman.

(2) The agreement shall be in accordance with the custom which pertains to the specific trade but shall not include the performance of any induction ceremony which may conflict with the rights of the child contained in Sub-Part I of Part I of this Act.

(3) The agreement shall contain such matters as may be agreed between the parties and may include –

- (a) provision that the parent, guardian or relative shall bear the cost of protective clothing and the basic tools for the training of the apprentice;
- (c) a duty that the craftsman is to provide shelter for the apprentice; and
- (d) a provision that the craftsman is to give the apprentice an allowance of not less than half the minimum national daily wage for his daily sustenance.

(4) The agreement shall be in writing and shall contain provisions in the best interest of the parties and the apprentice.

(5) Should either party to the agreement contravene its terms, the agreement shall immediately lapse unless there is a contrary intention in the agreement.

Duties of apprentice

101. An apprentice shall diligently and faithfully obey and serve the craftsman and shall agree –

- (a) that he will not absent himself from the apprenticeship without permission;

- (b) to prevent any deliberate damage to the property of the craftsman; and
- (c) not to conceal any damage to the property of the craftsman.

Release of apprentice

102. (1) The conditions for the release of an apprentice upon the completion of his training shall not be exploitative and shall be in accordance with the best interest of the child under Sub-Part I of Part I of this Act.

(2) The craftsman shall on completion of a period of apprenticeship issue a certificate of release to the apprentice which shall indicate that the apprentice has completed his training.

(3) If the craftsman refuses to issue the certificate of release without just cause he commits an offence and is liable on summary conviction to a fine not exceeding ₡2 million or six months imprisonment or both.

Resolution of disputes

103. Disputes related to an apprenticeship agreement shall be referred to the district labour officer of the district concerned by the parties to the apprenticeship agreement or the apprentice.

Application of Sub-Part I of this Part

104. The provisions of Sub-Part I of this Part on Child Labour shall apply to this Sub-Part.

PART VI – INSTITUTIONALISED CARE AND MISCELLANEOUS MATTERS

Sub-Part I – Approved residential homes

Approval of residential home

105. (1) The Government may establish a home referred to this Act as “a home” for the care of children in such areas as the Minister may determine.

(2) Any person or an NGO may also establish and operate a home for the care of children subject to the approval of the Minister.

(3) An application for the approval of a home shall be submitted to the Minister

(4) The Minister shall cause the home to be inspected by the Department and if the home meets the required standard it shall be approved by notice published in the Gazette.

(5) Upon approval by the Minister, the home shall obtain a license to operate issued by the Minister after payment of the prescribed fee but this provision shall not apply to a government home.

(6) Any non-governmental home in existence at the commencement of this Act shall apply to the Minister for approval and the issue of a license within a period of six months from the commencement of the Act.

106. Department to monitor homes-

The Department of a District Assembly shall monitor homes within its district.

107. Power of Minister to give directives to homes-

The Minister may give such orders and directions to a home as may be expedient in the public interest.

108. Inspection –

The Minister may authorise the inspection of a home by the Department at any time to ensure that the home is being maintained at the required standard.

109. Admission of children to homes-

- (1) A child may be admitted to a home-
 - (a). Pending the determination by a Family Tribunal of an order under Sub-Part II of Part I of this Act;
 - (b) on the recommendation of a probation officer or social welfare officer who has determined that the approved home is the most suitable place for the child:
or
 - (c) If the child is an orphan and family care and fosterage are not available.
- (2) If a home fails to maintain the required standard its license to operate may be cancelled or suspended by the Minister and alternative arrangements shall be made by the Department for the children in the home
- (3) It shall be the responsibility of the staff of a home, the probation and social welfare officer and any other person to assist a child resident in the home to become reunited with its parents, guardian or relatives.
- (4) After a child has been returned to his family home from a home, the probation and social welfare officer shall keep in regular contact with the child and his family to ensure that the best interest of the child is sustained
- (5) Where a child is unable to return to his parents or go to foster parents or has no parent or foster parent, he shall be encouraged and assisted by the home and the probation and social welfare officer to become independent and self reliant.

110. Parental responsibility of staff of approved homes-

- (1) While a child is in a home the staff of the home shall assume parental responsibility for the child and ensure that the rights of the child in Sub- Part I of Part I of this Act are protected

(2) Notwithstanding subsection (1) of this section, the parents, guardian or relatives of a child in a home shall supplement the efforts of the home to safeguard and promote the welfare of the child by visiting the child and other wise protecting the interest of the child.

(3) Parental responsibility of a child in a home shall include an application to a Family Tribunal to protect the best interest of the child where necessary.

Power of Family Tribunal to order contribution

111. (1) A Family Tribunal may order that the parent, guardian or relative of a child in a home shall contribute towards the maintenance of the child in the home.

(2) Any amount to be contributed shall be reasonable and may be varied by the Family Tribunal if there is a change in circumstances of the contributor.

Approved home and adoption

112. (1) Subject to the provisions of this Act a child in a home shall be put up for adoption if it is in the best interest of the child.

(2) The decision for the adoption of a child in a home shall be taken by the Department in consultation with the management of the home.

Regulations and homes

113. The Minister may by legislative instrument make regulations for homes.

Offences under this Sub-Part

114. (1) The penalty for contravention in respect of the rights of the child and parental duty in section 15 of this Act shall apply to any person in a home who fails to uphold the rights of the child.

- (2) Any person who -
- (a) operates a home without a licence issued by the Minister, or
 - (b) continues to operate a home in contravention of this Sub-Part; or
 - (c) obstructs or hinders any person conducting an inspection under this Sub-Part

Commits an offence and is liable on summary conviction to a fine not exceeding €5 million or to a term of imprisonment not exceeding one year or to both and in the case of a continuing offence to a further fine not exceeding €100,000 for each day on which the offence continues.

Sub-Part II – Day-Care Centres

Application to operate day-care centre

115. (1) An application for a permit to operate a day-care centre shall be submitted by the applicant to the Department.

(2) The application shall be accompanied by such fee as may be prescribed in a bye-law of a District Assembly.

(3) The Department shall inspect the proposed day-care centre and if it meets the required standard it shall approve the application and grant a permit upon payment of the fee for the permit prescribed in a bye-law.

(4) Any day-care centre in operation without a permit granted by a Department shall be closed on fourteen days notice to the owner or operator by the Department.

Inspection

116. (1) The Department shall inspect the premises, books, accounts and other records of a day-care centre at least once in every six months and shall submit a report of the inspection to the Social Services Sub-Committee of a District Assembly.

(2) If the inspection reveals that the day-care centre is not being managed efficiently in the best interest of the children, the Department shall suspend the permit and the owner or operator shall be ordered to make good any default within a stipulated time.

(3) If the owner or operator fails to make good the default within the stipulated time, the permit shall be cancelled.

Bye-laws and guidelines

117.A District Assembly shall issue such bye-laws and guidelines as it may determine for the operation of day-care centres within its district.

Policy directives

118.The Ministry for Social Welfare and the Ministry for Education may issue such policy directives as may be necessary for the operation of day-care centres.

Existing operators

119. Any person who owns or operates a day-care centre before the commencement of this Act who intends to continue to operate the day-care centre shall apply to the Department for a permit within six months of the commencement of this Act.

Offences under this Sub-Part

120. Any person who –

- (a) operates a day-care without a permit issued by the Department; or
- (b) continues to operate a day-care centre in contravention of this Part; or
- (c) obstructs or hinders any person conducting an inspection under this Sub-Part

commits an offence and is liable on summary conviction to a fine not exceeding ₪5 million or to a term of imprisonment not exceeding one year or to both and in the case of continuing offence to a further fine not exceeding ₪100,000 for each day on which the offence continues.

Sub-Part III – Miscellaneous Provisions

Registration of births

121. (1) The District Health Department of a District Assembly shall in consultation with the Department of the District Assembly be responsible for registration of births in the district.

(2) The registration of births shall form part of the district primary health care programme.

(3) The District Assembly may delegate any of its functions under this section to a Unit Committee or to such other person as it may determine to be appropriate.

Determination of age of a child

122. (1) In the absence of a birth certificate or a baptismal certificate a certificate signed by a medical officer as to the age of a child below eighteen years of age shall be evidence of that age before a Family Tribunal without proof of signature unless the court directs otherwise.

(2) An order of a Family Tribunal shall not be invalidated by any subsequent proof that the age of the child has not been correctly stated to the Family Tribunal and the age presumed or declared by the Family Tribunal to be the age of that child shall be deemed to be the true age for the purpose of any proceedings under this Act.

(3) A statutory declaration issued and certified by the High Court of Justice or person authorised by law to authenticate same as to the age of a child upon an application by a parent or guardian of the child shall be evidence of the age of that child.

Regulations

123. (1) Without limiting the power to make regulations under any Part of this Act, the Minister may by legislative instrument make regulations –

- (a) in respect of care and protection under Sub-Part II of Part I;
- (b) on fosterage under Sub-Part I and Part IV;
- (c) on child labour under Sub-Part I of Part V;
- (d) on apprenticeship under Sub-Part I of Part V;
- (e) on homes under Sub-Part I of Part VI;
- (f) on day-care centres under Sub-Part II of Part VI; and
- (g) generally for the implementation of the provisions of this Act.

(2) Regulations made under this Act may provide for the charging of fees for anything to be done under this Act.

Interpretation

124. In this Act unless the context otherwise requires –

“approved residential home” means a residential home for children which is run by Government or a non-governmental home licensed by the Minister where children are given temporary substitute family care;

“child abuse” means contravention of the rights of the child which causes physical or mental harm to the child;

“craftsman” means a person who can train and instruct an apprentice in a trade;

“day-care centre” means any early childhood development establishment where children below compulsory school going age are received and looked after for the day or a substantial part of the day with or without a fee;

“Department” means the Social Welfare and Community Development Department of a District Assembly;

“disabled child” means a child who suffers from abnormalities or loss of physiological functions, anatomic structure or psychological state and has lost in part or wholly the ability to engage in activities in a normal way and is as a result hampered in his normal functions in a certain areas of social life;

“district” means the area of authority of a District Assembly and includes a municipality and metropolis;

“District Assembly” includes Municipal and Metropolitan Assembly;

“District Chief Executive” includes Municipal and Metropolitan Chief Executives;

“fit person” means a person of full age who is of high moral character and integrity and of sound mind capable of looking after a child, is not a relative of the child and has been registered by a probation officer or social welfare officer as being able to provide a caring home for a child;

“home” means a residential place where a child is given temporary substitute family care;

“informal sector” means the area of economy other than industry;

“institution” means an approved residential home;

“inter-country adoption” means the adoption of a child by a person who is not a citizen of Ghana who resides outside Ghana and the removal of the adopted child from the jurisdiction;

“minor criminal matter” means a minor offence such as petty theft, petty assault and threatening offences;

“Minister” means the Minister responsible for Social Welfare;

“next friend” means a person who intervenes to assist a child to bring a legal action;

“NGO” means a non-governmental organisation;

“parent” means natural parent and includes a person acting in whatever way as parent;

“young person” means a person of or above eighteen years who is under twenty-one.

Amendments and repeals

125. The enactments specified in the first column of the Schedule to this Act are amended or repealed in the manner specified in the second column of that Schedule.

Savings

126. (1) Notwithstanding the repeal of the enactments specified in the Schedule to this Act –

- (a) the Day-Care Centres Regulations, 1979 (L.I. 1230);
- (b) the Adoption (High Court) Rules, 1963 (L.I. 276); and
- (c) any other rules or regulations

made under the repealed enactments and in force immediately before the commencement of this Act are hereby continued in force until amended or revoked or otherwise dealt with under this Act.

(2) Family Tribunals in existence immediately before the commencement of this Act by virtue of an enactment repealed by this Act are hereby continued in existence subject to the provisions of this Act.

SCHEDULE

(section 125)

Consequential Amendments and repeals

Enactment	How affected
1. Marriage Ordinance (cap 127)	Subsection (2) of section 14 repealed.
2. Adoption Act, 1962(Act 104)	Section 27 is repealed.
3. Labour Decree, 1967(N.L.C.D 157)	<p>Act is repealed.</p> <p>(a) Section 16(1) is amended by the deletion of “sixteen” and the insertion of “fifteen”;</p> <p>(b) Section 16(2) is amended by the deletion of “sixteen” and the insertion of “fifteen”;</p> <p>(c) Section 32 is amended by the deletion of “sixteen” and the insertion of “fifteen”;</p> <p>(d) Sub-Part 2 of Part V – Children and Young Persons, section 44-46 is repealed; and</p> <p>(e) The following definitions in section 47 are deleted –</p> <ul style="list-style-type: none"> i. “child”; ii. “night work” paragraph (b); and iii. “young person”.
4. Scouts and Guides Decree, 1969 (N.L.C.D. 399)	<p>(a) Subsection (2) of section 1 amended as follows –</p> <ul style="list-style-type: none"> i. in paragraph (b) by the insertion of “courtesy, home craft” after “observation”; and ii. in paragraph(b) by the insertion of “love of nature, traditional arts and customs” after “others”. <p>(b) Paragraph (b) of subsection (2) of section 2 amended by the insertion of “observation, self-reliance”, after “of”.</p>

<p>5. Maintenance Decree, 1977 (S.M.C.D. 133)</p> <p>6. Day-Centres Decree, 1978 (S.M.C.D. 144)</p> <p>7. Intestate Succession Law, 1985 (P.N.D.C.L. 111)</p>	<p>Decree is repealed.</p> <p>Decree is repealed.</p> <p>(a) Section 5 is amended as follows-</p> <ul style="list-style-type: none"> i. by the renumbering the section as subsection (1); ii. by the repeal of the proviso after paragraph (d); iii. by the insertion after paragraph (d) of the following proviso – “Provided that where there is a child who is a minor undergoing educational training, reasonable provision shall be made for the child before distribution.” iv. by the insertion of a new subsection (2) as follows - “(2) Where there is no surviving parent one-fourth of the residue of the estate shall devolve in accordance with customary law”; <p>(b) section 12 is amended in paragraph (a) and (b) by the deletion of “¢50,000.00” and the insertion of “¢10 million”; and</p> <p>(c) section 18 on interpretation is amended as following –</p> <ul style="list-style-type: none"> i. in the definition of “child” by the insertion of “whether or not born in wedlock” after “ child”; ii. by the insertion after “estate” of the following “house” includes an immovable property for dwelling purposes”.
---	--

<p>8. Social Security Law, 1991 (P.N.D.C.L. 247)</p>	<p>Section 40 is amended by –</p> <ul style="list-style-type: none"> i. the insertion in subsection (6) of “shall review his nomination once every five years”; after “and”; and ii. the addition of a new subsection as follows – “(8) Notwithstanding subsection (7) if a member of the Scheme has a child of school going age 60% of the contribution shall be distributed to the child and 40% to the person nominated by the member”.
<p>9. Courts Act, 1993 (Act 459)</p>	<p>Subsection (2) of section 47 is repealed and the following inserted “A Community Tribunal shall also have jurisdiction to hear and determine any action arising under the Childrens Act, 1998 (Act 556) and shall for purpose of that enactment be the Family Tribunal”.</p>
<p>10. Maintenance of Children Act, 1965 (Commencement) Instrument, 1965 (L.I.477).</p>	<p>Instrument is revoked.</p>
<p>11. Maintenance of Children Decree, 1977, (Commencement) Instrument, 1978 (L.I. 1137).</p>	<p>Instrument is revoked.</p>
<p>12. Day-care Centre Regulations, 1979 (L.I.1230)</p>	<ul style="list-style-type: none"> (a) Regulation 1 is amended by the insertion of “and” after paragraph (c) and the insertion of a new paragraph as follows – “(e) a telephone if telephone service is available”. (b) Regulation 3(1) is amended by the insertion of “and a reasonable quantity of toys made from wood and other non-toxic materials after “sandpit”. (c) Regulation 8(4) is amended by the deletion of “twenty-five” and the insertion of “fifteen”.

Date of Gazette notification: 5th February, 1999.

