THE ADOPTION OF CHILDREN (AMENDMENT) BILL, 2007

EXPLANATORY NOTE

(These notes form no part of the Bill but are intended only to indicate its general purport)

The object of the Bill is to treat with certain deficiencies in the Adoption of Children Act, No. 67 of 2000 (“the Act”) which has not yet been proclaimed and to replace the Adoption Board with the Children’s Authority with respect to responsibility for the adoption of children.

Clauses 1 and 2 would speak to the short title and interpretation requirements of the Bill.

Clause 3 would amend the long title of the Act to clarify the proper name of the relevant international agreement given the force of law in Trinidad and Tobago.

Clause 4 would amend section 2 of the Act to redefine the term “Minister” and insert new terms.

Clause 5 would repeal Part II of the Act.

Clause 6 would substitute the term “Children’s Authority” for “the Adoption Board” throughout the Bill for which this is the Act.

Clause 7 would repeal and replace section 9(1) in order to effect a consequential change in the marginal note.

Clause 8 would repeal and replace section 11 to effect a consequential change in the marginal note.
Clause 9 would, *inter alia*, amend section 12 of the Act dealing with the mandatory probationary period preceding the making of an adoption order by the Court, to empower the Children’s Authority (“the Authority”) to waive the period where only one of the applicants for a waiver is a parent of the child. Clause 9 would also remove from section 12(2)(b), the requirement for the Authority to give reasons for its decisions since the requirement already appears in subsection (4).

Clause 10 would amend section 13 of the Act to widen the instances where a child would be removed from the custody of an applicant against the applicant’s will.

Clause 11 would amend section 14 to require the Authority to provide reasons for its decisions in certain instances.

Clause 12 would insert a new section 14A to provide appeals to the High Court from decisions of the Authority.

Clause 13 would amend section 15 to make more precise the language of the provision dealing with the Authority’s application to the Court for making a child available for adoption.

Clause 14 would amend section 16 of the Act to set out the limits of the information which the Authority may divulge to a former parent in terms of future questions concerning the adoption of the child.

Clause 15 would amend section 17(3) to narrow the effect of an adoption order revoked in accordance with the Act.

Clause 16 would repeal and replace section 21 to effect a consequential change in the marginal note.

Clause 17 would repeal and replace section 22 to effect a consequential change in the marginal note.

Clause 18 would repeal section 23.
Clause 19 would amend section 24 to strengthen the power of the Court to make an adoption order under certain circumstances and leave it to the Court to determine what would amount to contact between a perspective adoptive parent and a child.

Clause 20 would utilize more appropriate language in respect of a term appearing in section 25.

Clause 21 would amend section 27 to ensure that proceedings relating to an application for an adoption order would be held *in camera*, and not published.

Clause 22 would amend section 34 to reduce the age requirement for an adopted person to apply to the Registrar General for information necessary to obtain a certified copy of his birth record.

Clause 23 would insert a new section 33A regarding the future issuance of certificates of birth of adopted children.

Clause 24 would amend section 37 to permit recognition of adoptions by residents of Trinidad and Tobago, outside of Trinidad and Tobago.

Clause 25 would amend section 38 to recognize adoption of children in Trinidad and Tobago by non-nationals of Trinidad and Tobago.

Clause 26 would amend section 39 to provide for service of notices by registered post.

Clause 27 would amend section 42 to continue any liability existing and preserve any adoption order made before the commencement of the Act for which this is the Bill.
### BILL

**AN ACT** to amend the Adoption of Children Act

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<thead>
<tr>
<th>Enactment</th>
<th>ENACTED by the Parliament of Trinidad and Tobago as follows:</th>
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<tr>
<td>Short title</td>
<td>1. This Act may be cited as the Adoption of Children (Amendment) Act, 2007.</td>
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<tr>
<td>Interpretation Act No. 67 of 2000</td>
<td>2. In this Act, “the Act” means the Adoption of Children Act.</td>
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<td>Section 2 amended</td>
<td>4. Section 2 of the Act is amended –</td>
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<td><strong>(a)</strong> by deleting the definition of “Minister” and substituting the following definition:</td>
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<td>“Minister” means the Minister to whom responsibility for the welfare of children is assigned;”;</td>
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<td><strong>(b)</strong> inserting in the appropriate alphabetical order the following definitions:</td>
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<td>“former parent” means a person who had care and custody of a child prior to an application to have the child made available for adoption;</td>
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“resident” has the meaning assigned to it by section 5 of the Immigration Act;”.

5. Part II of the Act is repealed.

6. The Act is amended by deleting –

(a) the words “the Board” and “the Adoption Board” wherever they occur and substituting in each place, the words “the Authority”;

(b) in section 12(3), the words “the Board’s” and substituting the words “the Authority’s”.

7. Section 9 of the Act is amended by repealing subsection (1) and substituting the following subsection:

“Adoption arrangements (1) No person other than the Authority shall make arrangements for the adoption of a child.”.

8. Section 11 of the Act is repealed and the following section is substituted:

“Religious upbringing of child 11. The Authority in placing a child with adopters shall 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.”.
Section 12 amended

9. Section 12 of the Act is amended –

(a) in subsection (2) by –

(i) deleting paragraph (b) and inserting the following paragraph:

“(b) one of the applicants is a relative of the child;”; and

(ii) in paragraph (c), by deleting the words “care and custody” and substituting the words “care and control”; and

(b) in subsection (3), by deleting the words “The Board shall give reasons for its decisions to the adopter.”.

Section 13 amended

10. Section 13 of the Act is amended by repealing subsection (1) and substituting the following subsection:

“(1) Before an adoption order is made in respect of a child who has been in the care and control of an applicant –

(a) for five years preceding the application; or

(b) for substantially or most of his entire life,

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 on the arrest of the child.”.

Section 14 amended

11. Section 14 of the Act is amended by deleting the words “and that person may apply from the decision of the Board to a Judge of the High Court” and substituting the words “giving reasons for its decision.”.
Section 14A inserted

12. The Act is amended by inserting after section 14, the following section:

“Appeals 14A. A person referred to in sections 12(3) and 14 may appeal from a decision of the Authority to a Judge of the High Court.”.

Section 15 amended

13. Section 15 of the Act is amended by repealing subsection (1) and substituting the following subsection:

“Application for availability for adoption

(1) Where a person makes an application to the Authority to have a child made available for adoption and the Authority accepts the application, the Authority shall apply to the Court for an order declaring the child available for adoption.”.

Section 16 amended

14. Section 16 of the Act is amended -

(a) in subsection (1) by deleting the words “the former parent” and substituting the words “a former parent”;

(b) by inserting after subsection (3), the following subsection:

“(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).”.
Section 17 amended

15. Section 17(3) of the Act is amended by –

(a) deleting the words “The revocation of an order” and substituting the words “Subject to any direction of the Court, the revocation of an order”;

(b) repealing paragraph (b) and substituting the following paragraph:

“(b) to give parental responsibility to the parent making the application; and”.

Section 21 repealed and replaced

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

“Application where child placed by Authority

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

Section 22 repealed and replaced

17. Section 22 of the Act is repealed and the following section is substituted:

“Consideration of views of the child

22. 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.”.

Section 23 repealed

18. Section 23 of the Act is repealed.
19. Section 24 of the Act is amended –

(a) in subsection (2), by deleting the words “The grounds specified for the purpose in subsection (1) are that the parent –” and substituting the following words:

“Notwithstanding subsection (1), the Court may make any adoption order where the Court finds that the parent –”;

(b) by repealing subsection (5) and substituting the following subsection:

“(5) For the purposes of this section, a child is abandoned if in the opinion of the Court, the parent has failed to make contact with the child.”.

20. Section 25 of the Act is amended in paragraph (b) by deleting the words “bring up” and substituting the word “raise”.

21. Section 27 of the Act is amended by repealing subsection (3) and substituting the following subsection:

“(3) Proceedings in respect of an application for an adoption order shall be held in camera and not published.”.

22. Section 34 of the Act is amended –

(a) in subsection (1) –

(i) by deleting the words “eighteen years old and the record of whose birth” and substituting the words “at least eighteen years of age whose birth record”;
(ii) by deleting the words “record of his birth” and substituting the words “birth record”;

(b) in subsection (3), by deleting the words “the Family Services Division of the Ministry” and substituting the words “at an agency specified by the Minister”.

Section 33A inserted

23. The Act is amended by inserting after section 33, the following section:

“Certificate of birth 33A. Where the Registrar General issues a certificate of birth in respect of an adopted child, the certificate shall bear no overt indication that the child was adopted.”.

Section 37 amended

24. Section 37 of the Act is amended by inserting after the words “by a national”, the words “or resident”.

Section 38 amended

25. Section 38 of the Act is amended –

(a) by renumbering section 38 as section 38(1) and inserting after the words “a national of”, the words “or a resident”;

(b) in section 38(1) as renumbered by deleting the words “all attempts to secure adoption by applicants who are nationals of Trinidad and Tobago had failed, and”;

(c) by inserting after section 38(1) as renumbered, the following subsection:

“(2) Subject to any direction of the Court otherwise, subsection (1) does not apply where the applicant is a relative of the child.”.
26. Section 39 of the Act is amended by deleting the word “post” and substituting the words “registered post”.

27. Section 42 of the Act is amended by repealing subsection (2) and substituting the following subsections:

“ (2) Nothing in this Act shall affect –

(a) any liability incurred by the Board in the performance of its duties under this Act; and

(b) an adoption order made,

before the coming into operation of the Adoption of Children (Amendment) Act, 2007.

(3) For the purposes of subsection (2), “Board” means the Adoption Board that existed prior to the repeal referred to in subsection (1).”.

Passed in the House of Representatives this day of , 2007.

Clerk of the House

I confirm the above.

Speaker
Passed in the Senate this day of , 2007.

Clerk of the Senate

I confirm the above.

President of the Senate