

CHAPTER 212

ADOPTION

1955-19

This Act came into operation on 30th April, 1955.

Amended by:

1956-56

1967/168

1981-35

1956-57

1979-32

1974-18

1980-55

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 212

**ADOPTION
1955-19**

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**BARBADOS****ADOPTION
1955-19**

An Act to make provision for the adoption of children.

[Commencement: 30th April, 1955]

Short title

1. This Act may be cited as the *Adoption Act*.

PART I**PRELIMINARY****Interpretation**

2. For the purposes of this Act, the expression
“adopter” means a person who has adopted a minor in pursuance of an adoption order made under this Act, and, in the case of such an order being made in favour of a husband and wife on their joint application, means both husband and wife;
“adoption order” has the meaning assigned to it by section 13;

“court” means a court having jurisdiction to make adoption orders under this Act;

“guardian” in relation to a minor means a person appointed by deed or will in accordance with the *Minors Act*, Cap. 215 or by any court to be the guardian of the minor;

[1981-35]

“minor” means a person under 18 years of age but does not include a person who is or has been married;

[1974-18]

“interim order” means an order under section 20;

“Minister” means the Minister responsible for Welfare;

“relative” in relation to a minor

(a) means a grandparent, brother, sister, uncle or aunt, whether of the full-blood, half-blood or by affinity, and

[1981-35]

(b) includes, where an adoption order has been made in respect of the minor or any other person under this Act, any person who would be a relative of the minor, within the meaning of paragraph (a), if the adopted person were the natural child of the adopter.

[1981-35]

PART II

ARRANGEMENTS FOR ADOPTIONS

Applications to be made to the Child Care Board

3. Any person desirous of adopting a minor shall make an application in respect thereof to the Child Care Board.

[1981-35]

Power of the Child Care Board to make enquiries, etc.

4. The Child Care Board shall make or cause to be made such enquiries, obtain or cause to be obtained such reports, and carry out such interviews as shall be necessary or shall be prescribed for the purpose of making arrangements for the adoption of minors and for the consideration of the court.

[1981-35]

Power of the Child Care Board to place a minor in the care and possession of an applicant

5.(1) Subject to this section, where the Child Care Board is satisfied that the person desirous of adopting a minor may be entrusted with the care and possession of the minor it may place such minor in the care and possession of that person.

(2) The Child Care Board shall not place a minor in the care and possession of such person if it is satisfied

(a) that the adoption of the minor by such person would not be in the best interests of the minor; or

[1981-35]

(b) that such person being resident in Barbados an adoption order in respect of the minor concerned could not lawfully be made in favour of such person; or

[1981-35]

(c) that such person being resident abroad, a licence has not been granted in respect of the minor concerned under section 37.

[1981-35]

Notice to be served on applicant if care and possession is refused

6. Where the Child Care Board for any reason decides that a minor should not be placed in the care and possession of a person desirous of adopting the

minor, it shall give notice in writing to that person of its intention not to place the minor in his care and possession.

[1981-35]

Power of Child Care Board to appoint persons to supervise a minor placed in the care and possession of an applicant who is resident in Barbados

7. When a minor is placed by the Child Care Board in the care and possession of a person resident in Barbados in pursuance of arrangements made for the adoption of the minor, the Child Care Board shall appoint one or more persons to keep the minor under close supervision in accordance with regulations during such time as the minor is in such care and possession pending the making of an adoption order or an interim order.

[1981-35]

Provisions relating to arrangements made by the Child Care Board

8.(1) At any time within 6 months from the date on which a minor is placed by the Child Care Board in the care and possession of a person resident in Barbados in pursuance of arrangements made for the adoption of the minor

- (a) that person may give notice in writing to the Child Care Board of his intention not to adopt the minor; or
- (b) the Child Care Board may give notice in writing to that person of its intention not to allow the minor to remain in his care and possession.

(2) Where any notice is given to the Child Care Board by any person or by the Child Care Board to any person under subsection (1), that person shall, within 7 days after the date on which the notice was given, cause the minor to be returned

to the parent or guardian of the minor, who shall receive the minor accordingly.

[1981-35]

[1981-35]

Appeal

9.(1) Any person given a notice by the Child Care Board under section 6 or 8 may, within 7 days of the receipt of a notice so given, appeal to the High Court.

(2) Any appeal under this section shall be in accordance with such procedure, and subject to such conditions, as may be prescribed.

[1956-57]

(3) Where the appeal relates to a notice given under section 6 and on the determination of the appeal it appears to the court that the minor concerned may be placed in the care and possession of the appellant, the court may so order, and such order shall have the same effect as a decision taken by the Child Care Board to place a minor in the care and possession of a person desirous of adopting the minor.

[1981-35]

(4) Where the appeal relates to a notice given under section 8 and on the determination of the appeal it appears to the court that the minor should be returned to the care and possession of the appellant, the court may so order and such order shall have the effect of preventing the Child Care Board from again removing the minor from the care and possession of the appellant.

[1981-35]

(5) Where on the determination of any appeal under this section it appears to the court that any notice given by the Child Care Board was in the circumstances justified, it shall make an order confirming his action.

[1981-35]

(6) Any order made by the court under this section shall be final.

[1981-35; 1956-57]

Action to be taken by the person having care and possession of a minor

10.(1) Where, at the expiration of the period of 6 months mentioned in subsection (1) of section 8, no such notice as is mentioned in that subsection has been given, or where, after a notice given in accordance with paragraph (b) of that subsection, the minor was, in pursuance of an order made under section 9, returned to the care and possession of the person from whom he was taken in consequence of that notice, so that he has been in the care and possession of that person for a total period of 6 months, the person into whose care and possession the minor was delivered shall, in either event within 3 months of the expiration of the period applicable to his case either

- (a) apply to the court for an adoption order in respect of the minor; or
- (b) give notice in writing to the Child Care Board of his intention not to apply for such an order.

(2) Where such notice is given to the Child Care Board or where an application for an adoption order is refused by the court, the person who has given such notice or who has been refused an adoption order shall, within 7 days after the date on which the notice was given, or, as the case may be, the application refused, cause the minor to be returned to his parent or guardian, who shall receive the minor accordingly.

[1981-35]

[1981-35]

Provision supplementary to sections 8 and 10

11. It shall be sufficient compliance with subsection (2) of section 8 or subsection (2) of section 10, if a minor is returned by the person required to return such minor under the said subsections to, and is received by, a suitable person appointed with his consent for that purpose by the Child Care Board, or, as the case may be, by the court.

[1981-35]

Release of inmate of Reformatory and Industrial Schools for purposes of adoption

12. Where the minor in respect of whom an adoption order is sought is an inmate of a Reformatory and Industrial School established under the *Reformatory and Industrial Schools Act*, Cap. 169, the Principal of such school may, with the consent of the Governor-General, and notwithstanding anything contained in that Act, sanction the unconditional release of the minor from such school for the purposes of this Act.

[1981-35]

PART III
ADOPTION ORDERS

Power to make adoption orders

13.(1) Subject to this Act, the court may, upon an application made in the prescribed manner by a citizen of Barbados or a person who is a citizen of a country with which Barbados has diplomatic or consular relations and who is domiciled in Barbados, make an order (in this Act referred to as “an adoption order”) authorising the applicant to adopt a minor.

(2) An adoption order may be made on the application of two spouses authorising them jointly to adopt a minor, if one of the spouses is a citizen of Barbados or a person who is a citizen of a country with which Barbados has diplomatic or consular relations and who is domiciled in Barbados.

[1981-35]

(3) An adoption order may be made authorising the adoption of a minor by the mother or father of the minor, either alone or jointly with her or his spouse.

[1981-35]

[1967/168; 1981-35]

Restrictions on making adoption orders

14.(1) An adoption order shall not be made in respect of a minor unless the applicant or, in the case of a joint application, one of the applicants

- (a) has attained the age of 25 years and is at least 18 years older than the minor; or
- (b) has attained the age of 18 years and is a relative of the minor; or
- (c) is the mother or father of the minor.

(2) An adoption order shall not be made in respect of a minor who is female in favour of a sole applicant who is male, unless the court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

[1981-35]

(3) Except as provided by subsection (2) of section 13, an adoption order shall not be made authorising more than 1 person to adopt a minor.

[1981-35]

(4) Subject to section 15, an adoption order shall not be made

- (a) in any case, except with the consent of every person who is a parent or guardian of the minor or who is liable by virtue of any order or agreement to contribute to the maintenance of the minor or who has been granted custody of a minor by an order of the court;

[1981-35]

- (b) on the application of one of 2 spouses, except with the consent of the other spouse.

(5) An adoption order shall not be made unless the applicant and the minor reside in Barbados.

[1981-35]

- (6) An adoption order shall not be made in respect of any minor unless
- (a) from the date on which the minor was placed in the care and possession of a person desirous of adopting him in pursuance of arrangements made by the Child Care Board for his adoption by that person he has been in the care and possession of that person for a total period of 6 months and was in the care and possession of that person at the time that the application for an adoption order was made;
 - (b) the applicant has at least 1 month before the date of the adoption order notified the Child Care Board of his intention to apply for an adoption order in respect of the minor.

[1981-35]

- (7) Where a person who wishes to adopt a minor
- (i) is the natural parent of the minor, or
 - (ii) has had the care and possession of the minor for a period of at least 3 years immediately preceding the application for adoption,

the period of 6 months mentioned in paragraph (a) of subsection (6) is reduced to 3 months.

[1981-35]

[1974-18; 1981-35]

Consent to adoption

15.(1) The court may dispense with any consent required by paragraph (a) of subsection (4) of section 14 if it is satisfied

- (a) in the case of a parent, guardian or a person granted custody by an order of the court
 - (i) that he has abandoned, neglected or persistently ill-treated the minor,

(ii) that he has persistently failed to discharge his parental duties in relation to the minor, or

(iii) that he has seriously ill-treated the minor;

[1981-35]

(b) in the case of a person liable by virtue of an order or agreement to contribute to the maintenance of the minor, that he has persistently neglected or refused so to contribute;

(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.

(2) The court may dispense with the consent of the spouse of an applicant for an adoption order if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving the consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(3) The consent of any person to the making of an adoption order in pursuance of an application (not being the consent of the minor) may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the minor is to be brought up) without knowing the identity of the applicant for the order, and where consent so given by any person is subsequently withdrawn on the ground only that he does not know the identity of the applicant, his consent shall be deemed for the purposes of this section to be unreasonably withheld.

[1981-35]

(4) While an application for an adoption order in respect of a minor is pending in a court, any parent, guardian or person granted custody by an order of the court of the minor who has signified his consent to the making of an adoption order in pursuance of the application shall not be entitled, except with the leave of the court, to remove the minor from the care and possession of the applicant, and in considering whether to grant or refuse such leave, the court shall have regard to the welfare of the minor.

(5) Sub-paragraph (iii) of paragraph (a) of subsection (1) does not apply unless because of the ill-treatment, whether alone or in combination with other reasons, the rehabilitation of the minor within the household of the parent or guardian is unlikely.

Withdrawal of consent

15A.(1) Any person whose consent is necessary under this Act may, at any time before an adoption order is made, withdraw his consent.

(2) In considering whether to accept the withdrawal of the consent of the person referred to in subsection (1) the court must have regard to the welfare of the minor.

[1981-35]

Evidence of consent of parent or guardian

16.(1) Where any person whose consent to the making of an adoption order is required by paragraph (a) of subsection (4) of section 14 does not attend in the proceedings for the purpose of giving it, then, subject to subsection (3), a document signifying his consent to the making of such an order shall, if the person in whose favour the order is to be made is named in the document or (where the identity of that person is not known to the consenting party) is distinguished therein in the prescribed manner, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings.

(2) Where any such document is attested in Barbados by a Justice of the Peace or, if executed outside Barbados, by a person of any such class as may be prescribed, the document shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed; and for the purposes of this subsection, a document purporting to be attested as aforesaid shall be deemed to be so attested and to be executed and attested on the date and at the place specified therein, unless the contrary is proved.

(3) A document signifying the consent of a mother of a minor shall not be admissible under this section unless

- (a) the minor is at least 6 weeks old on the date of the execution of the document; and
- (b) the document is attested on that date by a Justice of the Peace or, as the case may be, by a person of a class prescribed for the purposes of subsection (2).

[1981-35]

(4) For the purposes of this section, a document signifying a person's consent to the making of an adoption order shall include a licence issued abroad by virtue of which a minor is brought into Barbados for adoption.

[1981-35]

Functions of court as to adoption orders

17.(1) 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 minor, due consideration being for this purpose given to the wishes of the minor having regard to the age and understanding of the minor; and
[1981-35]
- (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.

(2) 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 minor such provision (if any) as in the opinion of the court is just and expedient.

[1981-35]

Adoption orders in respect of minors previously adopted

18.(1) An adoption order or an interim order may be made in respect of a minor who has already been the subject of an adoption order under this Act.

(2) In relation to an application for an adoption order in respect of a minor who has already been the subject of an adoption order under this Act, the adopter or adopters under the previous or last previous adoption order shall be deemed to be the parent or parents of the minor for all the purposes of this Act.

[1981-35]

[1981-35]

Cancellation of adoption order

18A.(1) Where a minor has been adopted by one of his natural parents, who at the time of the adoption was not married to the other, and both of the minor's natural parents subsequently marry, the parents may apply to the court to have the adoption order cancelled.

(2) Subsections (2) and (3) of section 28 apply *mutatis mutandis* to this section.

[1981-35]

Jurisdiction and procedure

19.(1) An application for an adoption order may be made to the High Court.

(2) Rules under this section or rules in regard to any matter to be prescribed under subsection (1) of section 13 or subsections (1) and (2) of section 16 and

rules dealing generally with all matters of court procedure and incidental matters in respect thereof arising out of this Act and for carrying all such matters into effect may be made by the Judicial Advisory Council.

(3) Such rules may provide for applications for adoption orders being heard and determined otherwise than in open court.

(4) For the purposes of an application for an adoption order and in any proceedings under this Act the court must appoint one of the following persons as *guardian ad litem*:

- (a) the Solicitor General, Child Care Board, Chief Probation Officer;
- (b) an officer of the Ministry of Legal Affairs nominated by the Solicitor General;
- (c) an officer of the Welfare Department nominated by the Child Care Board;
- (d) an officer of the Probation Office nominated by the Chief Probation Officer; or
- (e) some other suitable person, where it is impracticable or undesirable to appoint any person mentioned in paragraphs (a) to (d).

[1981-35]

[1956-56]

Refusal of order

19A.(1) Where the court refuses to make an adoption order in respect of a minor under the age of 16 years, the court may, having regard to all the circumstances, grant custody of the minor to the Child Care Board or to an individual, other than either parent of the minor.

(2) The court may, where it grants custody of a minor to the Child Care Board or an individual pursuant to subsection (1), order a parent of the minor to pay to

the Child Care Board or the individual, as the case may be, such weekly or other periodical sum as the court thinks reasonable.

[1981-35]

PART IV
INTERIM ORDERS

Interim orders

20.(1) Subject to this section, the court may, upon any application for an adoption order, postpone the determination of the application and make an interim order giving the custody of the minor to the applicant for a period not exceeding 2 years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the minor and otherwise as the court may think fit.

(2) All such consents as are required to an adoption order shall be necessary to an interim order but subject to a like power on the part of the court to dispense with any such consent.

(3) An interim order shall not be made in any case where the making of an adoption order would be unlawful by virtue of subsection (6) of section 14.

(4) An interim order shall not be deemed to be an adoption order within the meaning of this Act.

[1981-35]

PART V
EFFECTS OF ADOPTION ORDERS

Rights and duties of parents and capacity to marry

21.(1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the minor in relation to the future custody, maintenance and education of the minor, including all rights to appoint a guardian and to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities shall rest in and be exercisable by and enforceable against the adopter as if the minor were the natural child of the adopter, and in respect of the matters aforesaid and in respect of the liability of a child to maintain his parents, the minor shall stand to the adopter exclusively in the position of the natural child of the adopter.

(2) In any case where two spouses are the adopters, the spouses shall, in respect of the matters mentioned in subsection (1) and for the purposes of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children, stand to each other and to the minor in the same relation as they would have stood if they had been the father and mother of the minor and the minor shall stand to them respectively in the same relation as to a father and mother respectively.

[1981-35]

(3) For the purposes of the law relating to marriage, an adopter and the person whom he is authorised to adopt under an adoption order shall be deemed to be within the prohibited degrees of consanguinity, and this subsection shall continue to have effect notwithstanding that some person other than the adopter is authorised by a subsequent order to adopt the same minor.

[1981-35]

[1981-35]

Friendly Society insurances

22.(1) For the purposes of the *Friendly Societies Act*, Cap. 379, which enables friendly societies to insure money to be paid for funeral expenses and which restricts the persons to whom money may be paid on the death of a child under the age of 10, an adopter shall be deemed to be the parent of the minor whom he is authorised to adopt under an adoption order.

[1981-35]

(2) Where, before the making of an adoption order in respect of a minor, any insurance mentioned in subsection (1) has been effected by the natural parent of the minor, the rights and liabilities under the policy shall by virtue of the adoption order be transferred to the adopter and the adopter shall, for the purposes of the said Act, be treated as the person who took out the policy.

[1981-35]

Maintenance orders, etc.

23.(1) Where an adoption order is made in respect of a minor, then, subject to this section, any order for maintenance in force with respect to that minor and any agreement whereby the father of the minor has undertaken to make payments specifically for the benefit of the minor, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under any such order, decree or agreement at the date of the making of the adoption order.

[1981-35]

(2) Where a minor, to whom any order, decree or agreement as mentioned in subsection (1) relates, is adopted by his mother and the mother is a single woman, the order, decree or agreement shall not in respect of any payments required to be made by the father of the minor cease to have effect by virtue of subsection (1) upon the making of the adoption order but shall cease to have such effect if the mother of the minor subsequently marries.

[1981-35]

[1979-32]

Intestacies, wills and settlements

24.(1) Where, at any time after the making of an adoption order, the adopter or the adopted person or any other person dies intestate in respect of any real or personal property (other than property subject to an entailed interest under a disposition made before the date of the adoption order), that property shall devolve in all respects as if the adopted person were the natural child of the adopter and were not the child of any other person.

(2) In any disposition of real or personal property made, whether by instrument *inter vivos* or by will whether before or after the date of an adoption order

- (a) any reference (whether express or implied) to the child or children of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to the adopted person;
- (b) any reference (whether express or implied) to the child or children of the adopted person's natural parents or either of them shall, unless the contrary intention appears, be construed as not being, or as not including, a reference to the adopted person; and
- (c) any reference (whether express or implied) to a person related to the adopted person in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him in that degree if he were the natural child of the adopter and were not the child of any other person.

[1981-35]

[1981-35]

Provisions supplementary to section 24

25.(1) For the purposes of the application of the *Succession Act*, Cap. 249 to the devolution of any property in accordance with section 24 and for the purposes of the construction of any such disposition as is mentioned in section 24, an adopted person shall be deemed to be related to any other person, being the child

or adopted child of the adopter or, in the case of a joint adoption, of either of the adopters

(a) where he or she was adopted jointly, and that other person is the child or adopted child of both of them, as brother or sister of the whole blood;

(b) in any other case, as brother or sister of the half-blood.

[1981-35]

(2) Notwithstanding anything in section 24, trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution.

(3) Nothing in subsection (3) shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any persons, other than a purchaser, who may have received it.

(4) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption order shall be disregarded for the purposes of section 24 in relation to the devolution of any property on the death of a person dying intestate in respect of such property after the date of the subsequent adoption order and in relation to any disposition of property made after that date.

PART VI

REGISTRATION OF ADOPTIONS

26. *[Repealed by 1980—55.]*

Registration of adoptions

27.(1) A certified copy of every adoption order made under this Act shall be submitted to the Registrar for registration.

(2) An adoption order submitted to the Registrar under subsection (1) shall contain a direction that he shall cause that order to be registered in accordance with the *Vital Statistics Registration Act*, Cap. 192A.

(3) For the purpose of giving effect to a direction under subsection (2).

(a) where the precise date of the birth of the minor is not proved to the satisfaction of the court, the court shall determine the probable date of his birth, and the date so determined shall be specified in the order as the date of birth;

[1980-55]

(b) where the country of birth of the minor is not proved to the satisfaction of the court, the particulars of that country may be omitted from the order and from the registration of the adoption.

(4) Where, upon an application to a court for an adoption order in respect of a minor, not being a minor who has been the subject of an adoption order, there is proved to the satisfaction of the court the identity of the minor with a child to whom an entry in the Register of Births or a registration of birth, as the case may be, relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar to cause the entry in the Register of Births or in the registration of the birth to be marked with the word, “ Adopted ”.

(5) Where an adoption order is made in respect of a minor who has previously been the subject of an adoption order, the order shall contain a direction to the Registrar to cause the previous entry in the Adopted Children Register, or the registration of the adoption, as the case may be, marked with the word, “Re-adopted”.

(6) Where an adoption order is made by a court, the Clerk of the court shall cause the order to be communicated to the Registrar, and upon receipt of that communication the Registrar shall cause compliance to be made with all directions contained in the order.

Amendment of orders and rectification of registers

28.(1) The court by which an adoption order has been made under this Act may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein; and where an adoption order is so amended, the Clerk of the court shall cause the amendment to be communicated to the Registrar, and any necessary correction of or addition to the Register of Births or to the Adopted Children Register or to any registration of births or adoptions, as the case may be, shall be made accordingly.

(2) Where an adoption order is quashed or an appeal against an adoption order allowed, the court which made the order shall give directions to the Registrar to cancel any marking of an entry in the Register of Births or any registration of births and any entry in the Adopted Children Register or any registration of an adoption which was effected in pursuance of the order.

[1980-55]

(3) A copy or extract of an entry in any register, or registration being an entry the marking of which is cancelled under this section, shall be deemed to be an accurate copy if, and only if, both the marking and the cancellation are omitted therefrom.

[1980-55]

[1980-55]

PART VII
OFFENCES

Making agreements, etc., for adoption

29.(1) Any person who

- (a) enters into or makes any agreement or arrangement for, or for facilitating, the adoption of a minor by any other person, whether the

adoption is effected or is intended to be effected in pursuance of an adoption order or otherwise; or

- (b) initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any such agreement or arrangement; or
- (c) causes another to enter into or make any such agreement or arrangement or to initiate or take part in any such negotiations,

shall on conviction by a court of summary jurisdiction be liable to imprisonment for 6 months or to a fine of \$1 000 or to both such imprisonment and fine.

[1981-35]

(2) Subsection (1) shall not apply to the Child Care Board or to a person appointed under section 7 when performing any duty required of them under this Act or any regulations or to a parent or guardian who enters into, makes, initiates or takes part in any such agreement, arrangement or negotiations in respect of a minor of which he is the parent or guardian or to any such parent or guardian who causes another to do so.

[1981-35]

[1981-35]

Obstructing, etc., persons appointed under section 7

30.(1) Any person who

- (a) refuses to allow the Child Care Board or a person appointed under section 7 to make a visit or examination in accordance with regulations; or
- (b) obstructs the Child Care Board or a person so appointed in the course of such visit or examination,

shall be liable on conviction by a court of summary jurisdiction to imprisonment for 6 months or to a fine of \$500 or to both such imprisonment and fine.

[1981-35]

(2) The court by whom such person is convicted may order any minor in respect of whom the offence was committed to be returned to his parent or guardian or placed in the custody of any person who may be appointed with his consent for that purpose by the court.

[1981-35]

[1981-35]

Failing to comply with section 8(2), 10 (2) or 11

31.(1) Any person, required by subsection (2) of section 8 or subsection (2) of section 10 to cause a minor to be returned to the parent or guardian of the minor, who fails to return such minor either in accordance with the said subsections or section 11, or any parent or guardian of a minor required by the said subsections to receive a minor who fails to receive such minor shall be liable on conviction by a court of summary jurisdiction to imprisonment for 6 months or to a fine of \$500 or to both such imprisonment and fine.

[1981-35]

(2) The court by which the offender is convicted may order the minor to be returned to his parent or guardian or placed in the custody of any person who may be appointed with his consent for that purpose by the court.

[1981-35]

[1981-35]

Failing to comply with subsection (1) of section 10

32.(1) Any person who fails to apply to the court for an adoption order or to give notice to the Child Care Board of his intention not to apply for such order as required by subsection (1) of section 10 shall be liable on conviction by a court of summary jurisdiction to a fine of \$200.

(2) The court by which the offender is convicted may order the minor to be returned to his parent or guardian or to be placed in the custody of any person who may be appointed with his consent for that purpose by the court.

[1981-35]

[1981-35]

Prohibition of certain payments

33.(1) It shall not be lawful for an adopter, or for a parent or guardian of a minor, to receive except with the sanction of the court any payment or other reward in consideration of the adoption of the minor under this Act or for any person to make or give or agree to make or give to an adopter, parent or guardian any payment or reward the receipt of which is prohibited by this subsection.

[1981-35]

(2) Any person who contravenes this section shall on conviction by a court of summary jurisdiction be liable to imprisonment for 6 months or to a fine of \$1 000 or to both such imprisonment and fine.

[1981-35]

[1981-35]

Restrictions upon advertisements

34.(1) It shall not be lawful for any advertisement to be published indicating

(a) that the parent or guardian of a minor desires to cause the minor to be adopted; or

[1981-35]

(b) that a person desires to adopt a minor; or

(c) that any person, not being the Child Care Board, is willing to make arrangements for the adoption of a minor

(2) Any person who causes to be published or knowingly publishes an advertisement in contravention of this section shall be liable on conviction by a court of summary jurisdiction to a fine of \$300.

[1981-35]

Proceedings for offences

35. Proceedings for an offence under this Act may be instituted by the Child Care Board and it may appear on the hearing of such proceedings.

[1981-35]

PART VIII

MISCELLANEOUS

Provision as to existing de facto adoptions

36.(1) Notwithstanding section 14, and subject to subsection (2), where on the 30th April, 1955,* any minor resident in Barbados is in the custody of, and being brought up, maintained and educated by, a person who is a Commonwealth citizen or by two spouses jointly, of whom one is a Commonwealth citizen, as his or their own child under any *de facto* adoption and such person or spouses are resident in Barbados and the minor in question has for a period of not less than 6 months before that date been in such custody and been so brought up, maintained and educated, the court may, upon the application of such person or on the joint application of such spouses, make an adoption order authorising him or them to adopt the minor upon being satisfied, after enquiries as required by section 4 have been made, that in all the circumstances of the case it is just and equitable and for the welfare of the minor that an adoption order should be made.

**[Being the date of commencement of the Act.]*

[1967/168; 1981-35]

(2) No adoption order shall be made under subsection (1) without the consent of every person who is a parent or guardian of the minor or who is liable by virtue

of any order or agreement to contribute to the maintenance of the minor, unless either

- (a) such child has been in such custody and been so brought up, maintained and educated for a period of not less than 2 years prior to the 30th April, 1955; or
- (b) the court is satisfied in accordance with paragraph (a), (b) or (c) of subsection (1) of section 15, whichever is applicable, that it may dispense with such consent.

[1981-35]

[1981-35]

Licences to send minor abroad for adoption

37.(1) A Judge may grant a licence in the prescribed form, and, subject to such conditions and restrictions as he thinks fit, authorising the care and possession of a minor for whose adoption arrangements have been made, to be transferred to a person who is a citizen of, and domiciled in, a country with which Barbados has diplomatic or consular relations and who is resident abroad.

- (2) Subject to this section, no such licence shall be granted, unless the Judge
 - (a) is satisfied that the application is made by or with the consent of every person who is a parent or guardian of the minor in question, or who has the actual custody of the minor, or who is liable to contribute to the support of the minor;
[1981-35]
 - (b) is satisfied, by a report of a diplomatic or consular representative of Barbados or any other person who appears to the Judge to be trustworthy, that the person to whom the care and possession of the minor is proposed to be transferred is a suitable person to be entrusted therewith and that the transfer is likely to be for the welfare of the minor, due consideration being for this purpose given to the wishes of

the minor, having regard to the age and understanding of the minor;
and

[1967/168; 1981-35]

- (c) is satisfied that the minor will be admitted to the country in which the person to whom the care and possession of the minor is to be transferred, and that the adoption of the minor is not likely to be prohibited by the laws of that country.

[1981-35]

(3) The Judge may dispense with any consent required by paragraph (a) of subsection (2), if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the minor or cannot be found, or is incapable of giving such consent, or, being a person liable to contribute to the support of the minor, either has persistently refused or neglected to contribute to such support, or is a person whose consent ought, in the opinion of the Judge and in all the circumstances of the case, to be dispensed with.

[1981-35]

(4) Where a Judge grants a licence under this section, he may authorise the making or receipt by any person of any payments in consideration of the transfer of the care and possession of the minor in respect of whom a licence is granted.

[1981-35]

(5) In any proceedings under this section, a report by a diplomatic or consular representative of Barbados or by a person of any such class as may be prescribed or a deposition made before a diplomatic or consular representative of Barbados or a person of any such class as may be prescribed and authenticated under the signature of such a representative or person shall, upon proof that the representative, such person or deponent cannot be found in Barbados, be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

[1967/168; 1981-35]

(6) The Judicial Advisory Council may make rules with respect to any matter to be prescribed under this section, and with respect to the application for and grant of licences under this section.

[1956-56]

[1956-56; 1981-35; 1967/168]

Service of notices

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

Regulations

39.(1) The Minister may, subject to subsection (2) of section 19 and subsection (5) of section 37, make regulations generally for carrying out this Act and in particular for

- (a) regulating the conduct of negotiations entered into by the Child Care Board with persons who, having the care and possession of minors, are desirous of causing the minors to be adopted, and in particular for securing
 - (i) that, where the parent or guardian of a minor proposes to place the minor at the disposition of the Child Care Board with a view to the minor 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 minor and calling attention to the provisions of this Act and of any rules relating to the consent of a parent or guardian to the making of such an order and to the provisions of this Act relating to the transfer of the care and possession of minors to persons resident elsewhere than in Barbados; and
 - [1981-35]*
 - (ii) that before so placing the minor at the disposition of the Child Care Board, the parent or guardian shall sign a document in the

prescribed form certifying that he has read and understood the said memorandum;

[1981-35]

[1981-35]

- (b) prescribing, in the case of every minor placed at the disposition of the Child Care Board, the enquiries which must be made and the reports, which must be obtained by the Child Care Board or a person appointed under section 7, in relation to the minor and the person desirous of adopting him for the purpose of ensuring, so far as may be, the suitability of the minor and the person desirous of adopting him respectively and in particular requiring that a report on the health of the minor signed by a duly qualified medical practitioner must be obtained by the Child Care Board;

[1981-35]

- (c) securing that no minor placed at the disposition of the Child Care Board shall be delivered into the care and possession of a person desirous of adopting him until that person has been interviewed by the Child Care Board and until the Child Care Board or a person appointed under section 7, has inspected any premises in Barbados in which the person proposing to adopt the minor intends that the minor should reside permanently and until the Child Care Board has considered the prescribed reports;

[1981-35]

- (d) making provision for the care and supervision of minors who have been placed by their parents or guardian at the disposition of the Child Care Board;

[1981-35]

- (e) securing that the Child Care Board shall with respect to any matter concerning the adoption of a minor be advised by such persons as the Minister may prescribe.

[1981-35]

- (2) All regulations shall be subject to negative resolution.

SCHEDULE

(s. 27)

FORM OF ENTRY in ADOPTED CHILDREN REGISTER

1 No. of entry	2 Date and Country of Birth of Child	3 Name and Surname of Child	4 Sex of Child	5 Name and Surname Address and Occupation of Adopter or Adopters	6 Date of Adoption Order and Description of Court by which made	7 Date of Entry	8 Signature of Officer deputed by the Registrar to attest the entry