

CHILDREN'S (AMENDMENT) ACT, 2016 Act 937

ARRANGEMENT OF SECTIONS

Section

1. Section 18 of Act 560 amended
2. Section 19 of Act 560 amended
3. Section 20 of Act 560 amended
4. Section 40 of Act 560 amended
5. Section 47 of Act 560 amended
6. Part IV of Act 560 amended
7. Section 112 of Act 560 amended
8. Section 123 of Act 560 amended
9. Section 124 of Act 560 amended

REPUBLIC OF GHANA

THE NINE HUNDRED AND THIRTY-SEVENTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

CHILDREN'S (AMENDMENT) ACT, 2016

AN ACT to amend the Children's Act, 1998 (Act 560) to make further provisions in respect of foster-care and adoption and to provide for related matters.

DATE OF ASSENT: 23rd November, 2016

PASSED by Parliament and assented to by the President.

Section 18 of Act 560 amended

1. The Children's Act, 1998 (Act 560) referred to in this Act as the principal enactment is amended in subsection (1) of section 18

(a) by the substitution for paragraph (e) of

"(e) is under the care of a parent or guardian who, by reason of abuse of substance, is unfit to have the care of the child;" and

(b) by the insertion after paragraph (e) of

"(eA) is under the care of a parent or guardian who by reason of a criminal conviction particularly in relation to child abuse is unfit to have the care of the child; " .

Section 19 of Act 560 amended

2. The principal enactment is amended in section 19 (a) by the insertion after subsection (3) of

"(3A) The Department shall determine a temporary place of safety for the child which may be

(a) with a fit person; or

(b) at the home of a parent, guardian or approved relative.";

(b) by the substitution for subsection (5) of

"(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 fit person."; and

(c) by the addition after subsection (5) of

"(6) A Family Tribunal shall not designate the manager of an institution as a 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."

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Section 20 of Act 560 amended

3. The principal enactment is amended in section 20 (a) by the substitution for subsection (3) of

"(3) The Department shall take custody of the child."; (b) by the insertion after subsection (3) of

"(3A) The Department shall determine the most suitable place for the child, which may be

(a) with a fit person; or

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

(3B) The Department shall notify the regional office of the order within seven days of the order.

(3C) The Foster Care Placement Committee in each region shall determine the appropriate placement for the child by confirming or varying the decision of the District Office.

(3D) The regional office shall make a report on each placement to the Head Office every three months." and (c) by the substitution for subsection (6) of

"(6) For the purposes of this section, "parent" means a parent of a child other than the parent from whom the child was removed."

Section 40 of Act 560 amended

4. The principal enactment is amended in section 40

(a) by the substitution for paragraph (c) of subsection (2) of

"(c) before a child is eighteen years of age with special leave of the family tribunal"; and (b) by the addition after subsection (2) of

"(3) A child who has attained the age of majority may apply to the family tribunal for confirmation of parentage without special leave of the family tribunal." .

Section 47 of Act 560 amended

5. The principal enactment is amended in section 47 by the deletion of subsection (2).

Part IV of Act 560 amended

6. The principal enactment is amended by the substitution for Part IV of the following:

"PART IV - FOSTER-CARE AND ADOPTION

Guiding principles

62. (1) For the purpose of this Part,

(a) the starting point in a process that may lead to the fostering or adoption of a child is the child; and

(b) the guiding principle in a decision relating to the fostering or adoption of a child is the best interest of that child.

(2) The financial and material poverty of a family shall not be a justification for placing or receiving a child in alternative care, but shall be seen as a signal to provide appropriate support to the family.

Foster care services

63. (1) An agency that wishes to provide foster-care services shall apply to the Department in the prescribed manner for accreditation to provide the service.

(2) The Department may revoke an accreditation granted to an agency under subsection (1).

Persons who can foster

64. (1) A person who is at least twenty-one years of high moral character and proven integrity may be a foster parent to a child.

(2) Despite subsection (1), a relative of a child who is at least eighteen years of age may be a foster-parent to the child.

(3) A person qualified under subsection (1) or (2) shall provide foster-care to a child in need of care and protection.

Application to foster a child

65. A person who qualifies to foster a child shall apply to the Department in the prescribed manner.

Child in need of foster-care

66. Where a child under a care order is committed to

(a) an approved residential home,

(b) a fit person, or

(c) at the home of a parent, guardian or approved relative, the Foster-Care Placement Committee may place the child with a foster-parent.

Foster-Care Placement Committee

67. (1) There is established under this Act, a Foster-Care Placement Committee in each region consisting of the following:

(a) the Regional Director of the Department who shall be the chairperson of the Committee;

(b) a Queenmother nominated by the Regional House of Chiefs;

(c) a trained counsellor or psychologist of not less than three years' experience;

(d) a social worker; and

(e) one other person from Civil Society Organisations with interest in the welfare of children nominated by the Civil Society Organisations.

(2) The members of the Committee shall be appointed by the Minister.

Functions of a Foster-Care Placement Committee

68. (1) A Foster-Care Placement Committee shall

(a) recommend the suitability of an eligible foster-parent to foster a child;

(b) determine the eligibility of a child to be placed in fostercare;

(c) match and place a child with a suitable foster-parent;

(d) terminate foster -care placement;

(e) recommend a child in foster-care for adoption; and

(f) address issues related to the foster-care placement.

(2) A Foster-Care Placement Committee shall submit a report on its deliberations to the Head of the Foster Care Services Unit through the Director of the Department.

Meetings of a Foster-Care Placement Committee

69. (1) The quorum for the Foster-care Placement Committee meeting shall be three members.

(2) A representative of the approved residential home where a child is placed may be co-opted to participate in the deliberations of a Foster Care Placement Committee but shall not have a vote.

(3) The Foster-Care Placement Committee shall regulate the procedure for its meetings.

Foster Care Services Unit

70. (1) The Department shall have a Foster-Care Services Unit at the national level.

(2) The Unit shall be constituted by

(a) a secretariat;

(b) an Interdisciplinary Committee to provide foster care related services; and

(c) a Multi-disciplinary Review Committee which shall be the highest complaint body on matters related to adoption and foster care provided under this section.

(3) The secretariat shall be headed by an officer not below the rank of Assistant Director.

(4) The secretariat shall

(a) issue license to eligible foster parents;

(b) issue license to eligible foster care agencies;

(c) co-ordinate the activities of foster care placement committees and foster care agents; and

(d) be responsible for the day to day administration of the Unit.

(5) The Unit shall submit monthly reports on its operations to the Chief Director through the Director of the Department.

Foster-Care Register

71. The Foster Care Services Unit of the Department shall maintain a Foster-Care Register in which shall be recorded particulars of eligible and licensed prospective foster parents, children eligible for foster care, foster parents and children who have been placed with such foster parents.

Foster-Care Fund

72. There is established under this Act, the Foster-Care Fund referred to in this Act as the Fund.

Object of the Fund

73. The object of the Fund is to provide

- (a) support to foster-parents in the maintenance of a foster child; and
- (b) for the administration of foster-care processes.

Sources of money for the Fund

74. The sources of moneys for the Fund are

- (a) moneys provided by the Minister responsible for Finance;
- (b) moneys received from internally generated funds;
- (b) moneys received from fund raising activities;
- (c) moneys received from non-governmental organisations;
- (d) donations, grants and gifts; and
- (e) any other moneys approved by Parliament.

Uses of moneys of the Fund

75. To achieve its object, moneys of the Fund shall be used for the following:

- (a) provide support for the care of foster children especially children with special needs;
- (b) conduct case review meetings;
- (c) conduct relevant investigation on a child in need of care and protection;
- (d) prepare relevant reports; and
- (e) any other matter necessary to achieve the object of the Fund.

Management of Fund

76. (1) The Fund shall be managed by the Foster Care Services Unit of the Department.

(2) Moneys for the Fund shall be paid into a bank account opened in the name of the Foster Care Services Unit in consultation with the Controller and Accountant-General or a representative of the Controller and Accountant-General.

(3) The signatories to the Account shall be the Director, Accountant of the Department and the Head of the Unit.

Accounts and audit

77. (1) The Unit shall keep books of account for the Fund and proper records in relation to them, in the manner approved by the Auditor- General.

(2) The Department shall submit the accounts of the Fund to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the account and forward a copy of the audit report to the Department.

(4) The financial year of the Fund shall be the same as the financial year of the Government.

Annual reports and other reports

78. (1) The Foster Care Services Unit shall within one month of receiving the Auditor-General's report, submit an annual report to the Minister covering the activities and operations of the Fund for the year to which the report relates.

(2) The annual report shall include the report of the Auditor- General.

(3) The Minister shall within one month of receipt of the report submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Unit shall submit to the Minister any other information that the Minister may require in writing.

Child to be adopted

79. (1) A child may be adopted if that child is

(a) less than eighteen years of age,

(b) in need of care and protection,

(c) under a care order, and

(d) other options of care for the child have been explored and adoption is considered the preferred option.

(2) Despite subsection (1)(b) and (1)(c), a child may be given up for adoption

(a) to the spouse of a parent of the child,

(b) if a relative wishes to adopt the child, or

(c) if special circumstances warrant adoption of the child.

(3) A child shall not be given up for adoption unless the child has been declared adoptable.

Restrictions on making adoption orders

80. (1) An adoption order shall not be made unless

(a) the applicant or, in the case of a joint application, one of the applicants

(i) is not less than twenty-five years and is not more than fifty-five years of age and at least twenty-one years older than the child for in-country adoption;

(ii) is not less than twenty-five years and not more than fifty years of age and at least twenty-one years older than the child in inter country adoption; or

(iii) is a relative of the child and is not less than twenty- one years and not more than sixty-five years of age in relative adoption;

(b) in the case of a single applicant, the applicant is a Ghanaian or a non-Ghanaian who habitually resides in Ghana;

(c) the applicant has notified the Department of an intention to apply for an adoption order for the child at least three months before the date of the order;

(d) in the case of a child under care of a foster parent, the child has been continuously in the care and custody of the applicant for at least two consecutive years immediately preceding the date of the order; and

Effect of adoption order on parental rights

82. (1) When an adoption order is made

(a) the rights, duties, obligations and liabilities including those under customary law of the parents or guardian of the child, or of any other person connected with the child shall cease; and

(b) the person adopting the child shall assume the parental responsibility of the child including the custody, maintenance and education of the child as if the child were born to that person.

(2) Where an adoption order is made jointly by a husband and wife or with the consent of the other spouse, the husband and wife 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.

Children previously adopted

83. (1) 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.

(2) A person shall not adopt a child for the purpose of giving the child up for adoption to another person.

Application to adopt a child

84. (1) A person who seeks to adopt a child shall apply in the prescribed manner.

(2) An application to adopt a child may be made

(a) through in-country or inter-country processes;

(b) jointly by a husband and wife;

(c) by a spouse with the consent of the other spouse;

(d) solely by the mother or father of the child to be adopted or by either of them jointly with a spouse; or

(e) by a single person subject to the provisions of this Part.

Application for Adoption Order and Interim Order

Application for adoption order

85. (1) An application for an adoption order shall be made to the High Court within the jurisdiction where the child resides on the date of the application.

(2) An application for an adoption order shall be accompanied by a Social Enquiry Report.

Conditions for adoption order

86. (1) Before a court makes an adoption order, the court shall satisfy itself that all pre-adoption processes to be undertaken in this Part have been complied with.

(2) The Court shall ensure that

(a) the consent required under this Act for the adoption order has been obtained and that the parent or guardian of the child understands that the adoption order permanently deprives the parent or guardian of rights and responsibilities towards that child;

(b) a written report on the wishes of the child on the adoption in the prescribed form has been considered if the child is capable of forming an opinion;

(c) the child has been continuously in the care and possession of the applicant for at least three consecutive months preceding the date of the order;

(d) if the child is at least fourteen years of age, the consent of the child to the adoption in the prescribed form has been obtained; and

(e) it is in the best interest of the child.

(3) The court may impose conditions when granting an adoption order and may require the applicant to enter a bond to make any provisions in respect of the child that the court considers necessary.

(4) The adoption order shall include the following particulars, unless the court directs otherwise:

(a) the date and place of birth of the child;

(b) the name, sex and surname of the child before and after adoption;

(c) the name, surname, address, citizenship and occupation of the adopter; and

(d) the date of the adoption order.

Interim order

86A. (1) The court may, subject to the provisions of this section, postpone the determination of an application for adoption order and make an interim order giving custody of the child to the applicant

(a) for a period not exceeding three months by way of probation; and

(b) subject to such terms and conditions that the court may consider necessary including provision for the maintenance, education and supervision of the child.

(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 the country 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) An interim order shall not be considered to be an adoption order.

Revocation of adoption order

86B. (1) An adoption order may be revoked on the following grounds:

(a) fraud;

(b) misrepresentation of facts leading to the grant of the adoption order; or

(c) discovery of new information which if previously known would have disqualified the adoptive parent from obtaining the adoption order.

(2) The court shall consider the best interest of the child when revoking an adoption order

Knowledge of adoption by child

86C. (1) An adoptive parent may inform the adopted child of the fact that the child is adopted and the child's parentage but this disclosure shall only be made if the child is at least fourteen years of age and it is in the best interest of the child.

(2) A person other than the adoptive parent shall not disclose information on adoption to the adopted child.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of not more than one hundred penalty units or to a term of imprisonment of not more than six months or to both.

(4) Despite subsection (2), the Authority may permit an adopted child who has attained twenty-one years of age to have access to information on the adopted child.

In-country Adoption

Adoptive Child

Child study and adoptability of a child

86D. (1) The Department shall conduct a child study on a child to be adopted, prepare and submit the Child Study Report to the Authority.

(2) The Report shall include recommendations on the adoptability of the child.

(3) The Authority shall determine the adoptability of a child based on the Child Study Report.

Prospective Adoptive Parent

Home study and eligibility of an applicant

86E. (1) The Department shall conduct a home study on a prospective adoptive parent and prepare and submit a Home Study Report to the Authority.

(2) The Report shall include recommendations on the eligibility and suitability of the applicant to adopt a child.

(3) The Authority shall determine the eligibility and suitability of a prospective adoptive parent to adopt a child based on the Home Study Report.

Support services

86F. The Department shall provide psycho-social services and training determined by the Department to an adoptable child and an eligible prospective adoptive parent before and after the child is placed for adoption.

Matching and pre-adoption placement

86G. (1) The Technical Committee of the Authority shall match eligible and suitable prospective adoptive parents with an adoptable child based on the Child Study Report and the Home Study Report.

(2) Where a matching is made, the child shall be placed with the prospective adoptive parent for a period of not less than one month under the supervision of the Department.

(3) A person shall not facilitate contact between an adoptable child or biological parents and the prospective adoptive parent before placement of the child.

(4) Despite subsection (3), the prospective adoptive parents, biological parents and the adoptive child may come into contact with one another before placement of the child with the prospective adoptive parents in the case of

(a) adoption by the spouse of a parent of the child;

(b) relative adoption; or

(c) adoption under special circumstances.

(5) The Department shall prepare a post placement report on the compatibility of the adoptive child with the prospective adoptive parent and members of the household.

(6) Where the Department is satisfied that the child is adoptable by a prospective adoptive parent after placement, the Department shall prepare a Social Enquiry Report on the child and the prospective adoptive parents to support the application for an adoption order.

Post Adoption

Post adoption requirements

86H. (1) After an adoption order has been granted by a court, the Authority or person authorised by the Authority shall

(a) require the adoptive parent to deposit a certified copy of the adoption order and new birth certificate for the adopted child with the Authority or the person authorised by the Authority;

(b) issue a certificate of conformity with this Part;

(c) monitor an adoption every six months during the first two years after the adoption order and once a year during the following three years; and

(d) provide appropriate measures to promote counseling and post adoption services.

(2) The adopter shall give the Department, at least thirty days notice in writing before leaving the country with the adopted child or sending the adopted child permanently out of the country.

(3) The notice given in subsection (2) shall be accompanied by a Home Study Report from the Receiving State which is prepared by a competent authority.

(4) The Authority shall take steps to ensure that ..

(a) the child shall be permitted to reside permanently in the Receiving State, and

(b) the competent authority of the Receiving State monitors and reports on the child for the remaining post adoption reporting period, if the child is being sent permanently out of the country within the reporting period under section 86H (1)(c).

Intercountry Adoption

Adoptive Child

Intercountry adoptability

861. Subject to the provisions of this Part, the Department may investigate an application for intercountry adoption as an alternative means of child care, if a child cannot be placed in a foster or adoptive family in the country or cannot in any suitable manner be cared for in the country

Prospective Adoptive Parent

Eligibility, suitability and approval of application

86J. The Authority shall review an adoption application based on the Home Study Report on an applicant received from an accredited adoption agency or the Central Authority of a Receiving State to determine the eligibility and suitability of the applicant to adopt a child from the country.

Restrictions on intercountry adoption

86K. A person shall not be considered for intercountry adoption if that person

(a) is in a same sex relationship, or

(b) is single and not a citizen of Ghana.

Pre-Adoption Procedure

Matching and pre-adoption placement

86L. (1) The Technical Committee of the Authority shall match eligible prospective adoptive parent with an adoptable child based on the Child Study Report and the Home Study Report.

(2) A child shall not be placed with a prospective adoptive parent unless the matching of the child to the prospective adoptive parent is accepted by the prospective adoptive parent and agreed to by the Central Authority of the Receiving State.

(3) Where a matching is accepted, the child shall be placed with the prospective adoptive parent for a period of not less than one month under the supervision of the Department in the country.

(4) The Department shall prepare a post placement report and submit it to the Authority for clearance to apply for an adoption order.

(5) The Department shall facilitate acquisition of an adoption order for the prospective adoptive parent.

(6) A person shall not facilitate contact between the adoptable child and the prospective adoptive parent before placement.

(7) Despite subsection (6), the prospective adoptive parents, biological parents and the adoptive child may come into contact with one another before placement of the child with the prospective adoptive parents in the case of

(a) adoption by the spouse of a parent of the child;

(b) relative adoption; or

(c) adoption under special circumstances.

(8) Pre-adoption placement may be waived in exceptional circumstances where a recognised senior medical doctor from a government health institution authorised by the Authority certifies that the child is in need of specialised medical care outside the country.

Transfer of Child to Receiving State

Interim adoption order

86M. (1) Section 86A is applicable where a court grants an interim adoption order and the child is to be transferred to the Receiving State pending a final adoption order.

(2) The Authority shall make arrangement to monitor the prospective adoptive parent and the child in the Receiving State pending the grant of the final adoption order.

(3) Where a child has been transferred to a Receiving State under an interim adoption order and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parent is not in the best interest of the child, that Central Authority shall immediately inform the Authority and shall in consultation with the Authority

(a) cause the child to be withdrawn from the prospective adoptive parent and arrange temporary care;

(b) arrange without delay, a new placement for the child with a view to adoption;

(c) arrange alternative long term care; or

(d) as a last resort, arrange for the return of the child if it is in the best interest of the child; and

(e) take any other measures necessary to protect the child.

(4) An adoption under this section shall not take place unless the Central Authority of the Receiving State informs the Authority about the new prospective adoptive parent for the child.

Acquisition and submission of adoption order and birth certificate

86N. (1) Where the court grants an adoption order, the adoptive parent shall

(a) obtain a birth certificate for the child; and

(b) submit a copy of the birth certificate and the adoption order to the Authority.

(2) On receipt of the documents specified under subsection (1), the Authority shall issue a Certificate of Conformity to the adoptive parent.

(3) The adoptive parent shall apply for the necessary travel documents to facilitate the transfer of the child to the Receiving State.

Post adoption services

86O. (1) The Authority shall enter into agreements with the Central Authority of the Receiving State to provide reports

(a) every six months during the first two years after the adoption order; and

(b) once a year during the following three years.

(2) A Central Authority of a Receiving State may delegate the preparation and submission of the reports to a body authorised by that Central Authority.

Administration of Adoption

Establishment of Central Adoption Authority

86P. There is established under this Act, the Central Adoption Authority referred to in this Act as the Authority under the Ministry responsible for social welfare.

Object and functions of the Central Adoption Authority

86Q. The object and functions of the Authority are

(a) to provide for the conduct of all adoptions in the country in a manner that promotes the well being and best interest of the child; and

(b) to support efficient and accountable practice in the delivery of adoption services in accordance with this Act and relevant laws on adoption including the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993.

Structure of the Central Adoption Authority

86R. To achieve its object and functions, the Authority shall have the following:

- (a) an Adoption Board;
- (b) a Technical Committee; and
- (c) an Adoption Secretariat.

Adoption Board

86S. (1) The governing body of the Authority is the Adoption Board referred to in this Act as the Board consisting of the following:

- (a) the Chief Director of the Ministry who shall be the chair- person;
- (b) the Director of the Department of Social Welfare;
- (c) one representative from the Judicial Service, not below the rank of a High Court Judge;
- (d) one representative from the Police Service not below the rank of an Assistant Commissioner;
- (e) one representative of a Civil Society Organisation working on child protection and children's rights;
- (f) one representative of the Ministry of Foreign Affairs not below the rank of a Director;
- (g) one representative of the Immigration Service not below the rank of a Chief Superintendent;
- (h) one woman with knowledge and experience in adoption matters; and
- (i) the Executive Secretary of the Adoption Secretariat, who shall not vote at meetings of the Board.

(2) The Minister shall appoint the members of the Adoption Board.

Functions of the Adoption Board

86T. The functions of the Adoption Board are as follows:

(a) to recommend policies, programmes and services for the protection of children from adoption related abuses, including exploitation and trafficking;

(b) review rules, regulations and guidelines governing adoptions;

(c) advise on a reasonable schedule of admissible fees in connection with adoption services;

(d) provide guidance on the institution of systems and procedures to prevent improper financial gain in connection with adoption;

(e) prevent improper practices contrary to this Act and other relevant laws including the 1993 Hague Convention;

(f) approve the accreditation of adoption agencies in the country and authorise foreign accredited agencies to undertake adoption services in the country;

(g) regulate the operation of adoption agencies;

(h) advise the Minister on the number of accredited agencies to undertake adoption services in a year;

(i) advice on appropriate measures to ensure records and information are managed in an ethical manner;

(j) develop ethical standards on working with and for children to guide the operation of staff of the Authority and competent authorities working with the Authority;

(k) plan and review the activities of the Authority; and

(l) perform such other functions on matters related to adoption as may be determined by the Minister.

Meetings of the Adoption Board and reporting

86U. (1) The Adoption Board shall meet twice a year but it may meet as and when necessary.

(2) The quorum at the meeting of the Board is five.

(3) Matters before the Board shall be decided by a majority of members present and voting and in the event of equality of votes the person presiding shall have a casting vote.

(4) The Board shall report to the Minister once in every six months and upon request from the Minister.

Technical Committee

86V. (1) The Authority shall have a Technical Committee to provide technical support to the Board and the Adoption Secretariat.

(2) The members of the Technical Committee are as follows:

(a) the Executive Secretary of the Adoption Secretariat, who shall be the chairperson;

(b) a clinical psychologist of not less than three years' experience;

(c) a medical practitioner of not less than three years' experience;

(d) a social worker of the Department not below the rank of a Assistant Director;

(e) a lawyer of not less than three years' experience; and

(f) a representative of civil society with interest in the welfare of children.

(3) The Committee may co-opt a person to participate in its deliberations where necessary.

(4) The Minister shall appoint the members of the Committee on the advice of the Board.

(5) The members of the Committee shall hold office for a term of five years and are eligible for reappointment for another two years.

Functions of the Committee

86W. (1) The Committee shall advise the Board and Adoption Secretariat on matters related to the adoption process in respect of

(a) decision on adoptability of a child;

(b) entry of name and particulars of a child declared adoptable in the adoptable children section of the Adoption Register;

(c) decision on the eligibility and suitability of an applicant for adoption;

(d) entry of name and particulars of an applicant declared eligible and suitable in the Adoption Register;

(e) matching of an adoptable child with an eligible and suitability prospective adoptive parent;

(f) providing technical advice to the Board in the performance of its functions; and

(g) performing any other functions as may be determined by the Board.

(2) The members of the Technical Committee may act as resource persons during the conduct of training programmes.

Meetings of the Technical Committee and reporting

86X. (1) The Technical Committee shall meet at least once a month. (2) The Technical Committee shall report to the Board at least every quarter.

Adoption Secretariat

86Y. (1) The Central Adoption Authority shall have an Adoption Secretariat.

(2) The head of the Secretariat is the Executive Secretary who is the overall head of the Authority and is responsible for the day-to-day administration of the Authority.

(3) The Executive Secretary shall be appointed by the President in accordance with article 195 of the Constitution.

(4) The terms and conditions of office of the Executive Secretary shall be as specified in the letter of appointment.

(5) The Secretariat shall have the staff that is necessary for the performance of its functions and other public officers may be seconded to the Secretariat.

Functions of the Secretariat

86Z. The Adoption Secretariat shall perform the following functions:

(a) be responsible for the administration of the Adoption Secretariat;

(b) implement the decisions made by the Adoption Board and the Technical Committee;

(c) assist other stakeholders and the Courts in the implementation of this Act and other relevant laws on adoption, particularly in collaboration with foreign persons, agencies and other entities involved in the process of adoption and the physical transfer of the child;

(d) review and update the operational manual on adoption when necessary;

- (e) submit periodic reports to the Board and the Minister;
- (f) set up an effective monitoring and evaluation system for adoption;
- (g) maintain a database on adoption in the country;
- (h) liaise with Receiving Central Authorities, Adoption Agencies and other key stakeholders involved in the adoption process;
- (i) process in-country and intercountry adoption applications, in close collaboration with the Department of Social Welfare, at national and regional levels, and with the duly authorised Adoption Agencies;
- (j) undertake research and documentation on adoption in the country;
- (k) design and undertake capacity building programmes for adoption agencies and other stakeholders related to the adoption process;
- (l) facilitate the entry into bilateral agreements with foreign adoption authorities in non-State Parties to the 1993 Hague Convention;
- (m) ensure recognition for adoptions done in the country by contracting states and non-State Parties to the 1993 Hague Convention;
- (n) certify that intercountry adoptions comply with the 1993 Hague Convention;
- (o) undertake public sensitisation, communication and advocacy activities on adoption;
- (p) make information on laws on adoption in general, accredited agencies and their status in the country available and accessible;
- (q) provide information on adoption to adoption applicants;
- (r) manage the Adoption Register;
- (s) establish and manage a records centre on all adoptions and Convention records; ..
- (t) organise and hold bi-annual planning and review meetings with stakeholders; and
- (u) any other issue related to adoption that the Minister and the Board deem necessary for attention.

Miscellaneous Provisions

Effect of adoption order on customary law, citizenship and foster parent 86ZA.

- (1) An adopted child shall be subject to customary law as if the adopted child 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 reference to the husband and wife.
- (3) A child need not be a citizen of Ghana to be adopted.
- (4) 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.
- (5) Where an adoption order is made in respect of a child under foster care, the foster care arrangement shall cease to apply.

Remuneration of members of the Committees

86ZB. The members of the Committees established under this Act shall be paid the allowances determined by the Minister in consultation with the Minister for Finance.

Retention of funds from services

86ZC. The Ministry shall retain seventy percent of funds generated from adoption and foster-care services to defray administrative and other costs in respect of the services.

Information and Records Management

86ZD. (1) The Authority shall have an Adoption Register in which shall be recorded the particulars of a child and parents undergoing an adoption process.

(2) A police report on a child in need of care and protection shall be served on the Department by the police station concerned.

(3) The Registrar of Births and Deaths shall serve on the Department a certified copy of a birth certificate issued upon child adoption within thirty days of issuance of the birth certificate.

(4) The Authority shall keep records that relate to processing foster care and adoption applications but the records shall not be made available to the public or be given to any person except under a court order.

(5) Records on foster care and adoption are subject to the provisions of the Data Protection Act, 2012 (Act 843).

Adopted Children's Register

86ZE. (1) The Registrar-General shall maintain an Adopted Children's Register in which shall be recorded particulars of the adoption order or interim order as the court may direct under this Part.

(2) Despite the provision made in any Regulations under the Adoption Act, 1962 (Act 104), every adoption order made by a court shall be served on the Registrar-General by the registrar of the court concerned within thirty days of making the order.

(3) The Registrar-General may by executive instrument make rules with respect to the Adopted Children's Register particularly rules (a) for the admission in evidence of a certified copy of an entry in the Adopted Children's Register; and

(b) as to searches in that Register and the fees to be charged for services rendered.

(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's 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 under this Part

86ZF. (1) A person shall not

(a) receive or agree to receive;

(b) make or agree to make; or

(c) give or agree to give

any payment or reward to an applicant, parent or guardian of the child for an adoption.

(2) A person who contravenes subsection(1) commits an offence and is liable on summary conviction to a fine of not more than one hundred and fifty penalty units or to a term of imprisonment of not more than one year or to both.

(3) A person shall not

(a) make or attempt to make an arrangement for the adoption of a child;

(b) for the purpose of having a child adopted, retain the child in the person's custody;

(c) arrange to have the child retained in the custody of another person;

(d) give a child, or cause a child to be given, to another person for the purpose of having the child adopted;

(e) receive a child for the purpose of adopting the child unless the person is a parent of the child, a relative of the child, the spouse of a parent of the child; or

(f) facilitate contact between an adoptable child or biological parents and the prospective adoptive parent before placement of the child.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to pay a fine of one hundred penalty units or to a term of imprisonment of six months or to both.

(5) Despite subsection (3) (a), a parent or guardian of a child may relinquish rights and responsibilities towards the child to the Department.

(6) A person who gives, facilitates or receives a child for purposes of adoption without the involvement of the Department commits an offence and is liable on summary conviction to a fine of not more than seven hundred and fifty penalty units or to a term of imprisonment of not more than three years.

(7) A person who contravenes subsection (2) of section 86B commits an offence and is liable on summary conviction to a fine of not more than hundred penalty units.

Procedure rules for adoption

86ZG. (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 interest to 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 within the jurisdiction where the child resides at the time of the application." .

Section 112 of Act 560 amended

7 The principal enactment is amended in section 112 by the substitution for subsection (2) of

"(2) The decision for the adoption of a child in a home shall be taken by the Central Adoption Authority." .

Section 123 of Act 560 amended

8. The principal enactment is amended in section 123 by the substitution for section 123 of the following:

"Regulations

123. Without limiting the power to make Regulations under any Part of this Act, the Minister may by legislative instrument make Regulations,

(a) on foster care and adoption under Part IV;

(b) prescribing fees for foster-care and adoption services and processes under this Act;

(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;

(g) for the establishment of Committees to give effect

to this Act; and

(h) generally for the effective implementation of this Act." .

Section 124 of Act 560 amended

9. The principal enactment is amended in section 124 by the

(a) the substitution for the definition of "Department" of

"Department" means the Department of Social Welfare at the regional or national level, where the context applies;" ;

(b) by the substitution for the definition of "fit person" of

"fit person" means a person who is registered as a prospective foster parent although not determined as a suitable foster parent for the child or an approved institution for the care of a child in need of care;"

(c) the substitution for the definition of "inter-country adoption" of

"inter-country adoption" means adoption of a child by a person who is not ordinarily resident in the country and who intends to reside in the home country of that person with the child after the grant of the adoption order; "; and

(d) the insertion after the definition of "Regulations" the following definitions:

"social enquiry report" means a report consisting of the Child Study Report, Home Study Report and the Post Placement Report; and

"special circumstances" mean circumstances where the person intending to adopt is not a relative of the child but has bonded with the child as a result of a relationship with the child preceding the intention to adopt;" .

(e) by the addition of the following new definition: "foster care" means supervised care organised by the State for a child in need of care and protection;"

"habitual residence" means the place where the child or the prospective adoptive parent usually resides, at least two years preceding the application for adoption;"

"in-country adoption" means adoption where both the applicant and the child habitually reside in Ghana;.

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