

## ADOPTION OF CHILDREN

AN ORDINANCE TO PROVIDE FOR THE ADOPTION OF CHILDREN, FOR THE REGISTRATION AS CUSTODIANS OF PERSONS HAVING THE CARE, CUSTODY OR CONTROL, OF CHILDREN OF WHOM THEY ARE NOT THE NATURAL PARENTS, AND FOR MATTERS CONNECTED WITH THE MATTERS AFORESAID.

Ordinance Nos,

24 of 1941

54 of 1943

Law Nos,

6 of 1977

Act Nos,

1 of 1964

38 of 1979

[15 of 1992](#) [ 11<sup>th</sup> March , 1992 ]

[12 of 2005](#) [ 11<sup>th</sup> May , 2005 ]

[1<sup>st</sup> February , 1944 ]

Short title. **1.** This Ordinance may be cited as the Adoption of Children Ordinance.

### PART I

#### ADOPTION OF CHILDREN

Power to make adoption orders. **2.**

(1) Any person desirous of being authorized to adopt a child may make application to the court in the manner provided by rules made under section 13, and upon such application being made, the court may, subject to the provisions of this Part, make an order (hereinafter referred to as an "adoption order") authorizing that person to adopt the child.

(2) No adoption order shall be made authorizing two or more persons to adopt a child: Provided, however, that the court may, on application made in that behalf by two spouses jointly, make an adoption order authorizing the two spouses jointly to adopt a child.

Restrictions on making of adoption orders. **3.**

(1) An adoption order shall not be made in any case where-

(a) the applicant is under the age of twenty-five years, or

(b) the applicant is less than twenty-one years older than the child in respect of whom the application is made:

Provided, however, that where the child in respect of whom an application is made is -

(i) a direct descendant of the applicant; or

(ii) a brother or sister of the applicant by the full or the

half-blood or a descendant of any such brother or sister; or  
(iii) the child of the wife or husband, as the case may be, of  
the applicant by another father or mother,

the court may, if it thinks fit make an adoption order, notwithstanding that the applicant is less than twenty-one years older than the child.

(2) An adoption order shall not be made in any case where the sole applicant is a male and the child in respect of whom the application is made is a female, unless the court is satisfied that there are special circumstances which justify the making of an adoption order.

(3) An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the child in respect of whom the application is made, or who has the actual custody of the child, or who is liable to contribute to the support of the child:

Provided that the court may dispense with any consent required by the preceding provisions of this subsection if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the child or cannot be found or has been adjudged by a competent court to be of unsound mind, or, being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the court and in all the circumstances of the case, to be dispensed with.

A man who marries a woman having a child (whether legitimate or illegitimate) at the time of the marriage shall be deemed for the purposes of this subsection to be a person liable to contribute to the support of the child.

(4) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them:

Provided that the court may dispense with any consent required by the preceding provisions of this subsection if satisfied that the person whose consent is to be dispensed with cannot be found or has been adjudged by a competent court to be of unsound mind, or that the spouses have been judicially separated by a decree of a competent court.

(5) An adoption order shall not be made in respect of a child over the age of ten years except with the consent of such child.

[\[2.15 of 1992\]](#)

(5A)

(a) An adoption order shall be made in favour of any applicant who is not a citizen of Sri Lanka and not domiciled or resident in Sri Lanka if no other person who is a citizen of Sri Lanka and resident and domiciled in Sri Lanka has applied to adopt the child in respect of whom the application is made.

(b)

(i) The number of adoption orders that may be made by all courts in any calendar year, in favour of applicants who are not or were not at any time citizens of Sri Lanka and who are not resident and domiciled in Sri Lanka, shall be prescribed by regulation.

(ii) An adoption order shall not be made in favour of any applicants who are not or were not at any time citizens of Sri Lanka and who are not resident and domiciled in Sri Lanka, if the effect of making of such order will be to exceed the number prescribed under sub-paragraph (i), for the calendar year in which the order is to be made.

[2.38 of 1979]

(6) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in Sri Lanka or in respect of any child who is not so resident:

[\[2.15 of 1992\]](#)

Provided that an adoption order authorising the adoption, by two spouses who are not citizens of Sri Lanka and who are not resident and domiciled in Sri Lanka of a child -

(a) who is in the care, custody or control of a person for the time being in charge of an orphanage, home or other institution maintained by the Government or of an orphanage registered under the Orphanages Ordinance for a period of at least five years; and

(b) selected by the Commissioner of Probation and Child Care Services,

may be made on the joint application of such spouses where, after calling for, and considering, a report from the Commissioner of Probation and Child Care Services on the social and psychological aspects of the adoption to be authorized and on the matters specified in section 4, the court is satisfied that there are special circumstances that justified the making of an adoption order in favour of the joint applicants. The Commissioner shall submit such report to court within the period fixed by court for that purpose, such period being not less than fourteen days and not more than twenty-eight days from the date on which the court calls for the report and shall annex to such report -

(a) a home study report in respect of the applicants from an institution recognized by the country of the applicants; and

(b) a police report from the police authority for the respective police areas within which the applicants reside, authenticated by the accredited representative of the Republic of Sri

Lanka in that country.

"home study report" means a report on the mental health of the applicants, on their social, religious and financial background and on their suitability to adopt a child;

"police report" means a report on the conduct and activities of the applicants.

Matters with respect to which court must be satisfied.

**4.** The court before making an adoption order shall be Satisfied -

(a) that every person whose consent is necessary under this Part 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; and

(b) that the order, if made, will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child; and

[\[3.15 of 1992\]](#)

(c) that-

(i) the applicant has not received, or agreed to receive, from any person, and has not made or given or agreed to give or make, to any person; or

(ii) no person has received, or agreed to receive, from the applicant, and has made or given or agreed to give or make, to the applicant,

any payment or other reward in consideration of the adoption except such as the court may sanction.

Terms and conditions of adoption order.

**5.** The court in an adoption order may impose such terms and conditions as the court may think fit and in particular may require the adopter by bond or otherwise to make for the adopted child such provision, if any, as in the opinion of the court is just and expedient.

Effect of adoption order.

**6.**

(1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted child in relation to the future custody, maintenance and education of the adopted child including all rights to appoint a guardian or to consent to the marriage of the child, or to give notice forbidding the issue of a certificate for the solemnization of such marriage shall be extinguished; and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child was a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock:

Provided that in any case where two spouses are the adopters such spouses shall, in respect of the matters aforesaid and for the purpose 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 adopted child in the same relation as they would have stood, if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child have stood to a lawful father and mother respectively.

(2) The court which makes an adoption order in respect of any child shall, unless in its discretion it considers it inexpedient so to do, by that order confer on the child the surname or family name of the adopter or such other name as would, having regard to the customs of the community to which the adopter belongs, be conferred on a child born in lawful wedlock of the adopter.

(3) Upon an adoption order being made, the adopted child shall for all purposes whatsoever be deemed in law to be the child born in lawful wedlock of the adopter:

Provided, however, that unless the contrary intention clearly appears from any instrument (whether such instrument takes effect inter vivos or mortis causa), such adopted child shall not by such adoption -

(a) acquire any right, title or interest in any property -

(i) devolving on any child of the adopter by virtue of any instrument executed prior to the date of the adoption order;

(ii) burdened with a \*fideicommissum in favour of the descendants of the adopter; or (\* Abolished by the Abolition of Fideicommissary and Entails Act, No. 20 of 1972 as amended by Law No. 13 of 1972.)

(iii) devolving on the heirs ab intestate of any child born in lawful wedlock of the adopter;

(b) become entitled to any succession (whether by will or ab intestate) jute representation is the adopter

(4) An adoption order shall not deprive the adopted child of any right to or interest in any property to which, but for the order, the child would have been entitled under any intestacy or disposition whether occurring or made before or after the date of the adoption order.

(5) Upon the death intestate of any person in respect of whom an adoption order has been made, neither the adopter nor any person claiming through or under him shall, by reason of the adoption, acquire any right to succeed to the estate or any part of the estate of the person adopted:

Provided, however, that where any part of the estate consists of immovable property which had accrued to or devolved on the adopted person by reason of his having been deemed in law to be the child born in lawful wedlock of the adopter, or which had been transferred to him by way of gift by the

adopter or by any ascendant or descendant or brother or sister of the adopter, the adopter and persons claiming under him shall, notwithstanding anything in any written or other law to the contrary, be entitled to succeed to that immovable property in like manner as though the person adopted were the child born in lawful wedlock of the adopter.

Power to make interim orders. **7.**

(1) Upon any application for an adoption order the court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Part) giving the custody of the child to the applicant for a period not exceeding two 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 child 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.

Provisions as to existing de facto adoptions.

**8.** Where at the appointed date any child is in the custody of and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any de facto adoption and has for a period of not less than two years 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 spouses and notwithstanding that the applicant is a male and the child a female, make an adoption order authorizing him, her or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

Power to make subsequent orders in respect of children already adopted.

**9.** An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Ordinance.

Adoption Register **10.**

(1) The Registrar-General shall establish and maintain at his office a register to be called the Adoption Register, together with an index thereof, and shall make or cause to be made in that register such entries as may be directed to

be made therein by adoption orders.

(2) The court which makes any adoption order shall in that order direct the Registrar-General to make in the Adoption Register an entry recording the adoption in the form set out in the Schedule to this Ordinance.

(3) Where, upon any application for an adoption order in respect of any child, the date of the birth of that child and the identity of that child with a child to whom any entry or entries in any register of births kept under the Births and Deaths Registration Act relates, is proved to the satisfaction of the court, the court shall if the adoption order is made, in that order direct the Registrar-General -

(a) to cause such birth entry or entries in the register of births to be marked with the word "Adopted"; and

(b) to include in the entry made under subsection (2) in the Adoption Register in respect of that order, the date of the birth of the child as specified in the order.

[ 3, Law 6 of 1977] (4) Every court which makes an adoption order shall cause the adoption order to be communicated to the Registrar-General, and upon receipt of such communication the Registrar-General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the registers of births with the word "Adopted" and in regard to making the appropriate entry in the Adoption Register, and the Registrar-General or an officer authorized by him in that behalf shall authenticate such marking of any entry in the register of births.

[ 3, Law 6 of 1977] (5)

(a) Where after an entry has been made in the Adoption Register in accordance with the directions of an adoption order, the name of the adopted child or the name or the names of the adopters of that child has or have been altered, the adopted child, if over the age of twenty-one years, or the adopter or adopters may make a written application to the Registrar-General in the prescribed form for an order directing the alteration of the particulars in the register relating to the name of the adopted child, the name or names of the adopters, as the case may be.

(b) On an application made under paragraph (a), the Registrar-General may after inquiry held by him or by an officer authorized by him in that behalf, direct the alteration of the particulars of the entry in the Adoption Register in terms of the application and accordingly shall make or cause such alteration to be made.

(c) The Registrar-General or any officer authorized by him in that behalf may correct any clerical error which may at any time be discovered in any entry made in the Adoption Register.

(d) Where the Registrar-General is satisfied on a written

declaration made to him in the prescribed form by an adopted child, if over the age of twenty-one years, or the adopter or adopters of that child that there is any error in any particulars in an entry in the Adoption Register relating to any matter of fact or substance, in respect of such adopted child, the Registrar-General or any officer authorized by him in that behalf may cause the error to be corrected by any entry made under his hand in the margin of the register.

(6) A certified copy of any entry in the Adoption Register if purporting to be made under the hand of the Registrar-General or any Assistant Registrar-General shall -

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as prima facie evidence of the adoption to which the same relates; and

(b) where the entry contains a record of the date of the birth of the adopted child, be received as prima facie evidence not only of the adoption to which the same relates but also of the date of the birth of the adopted child to which the same relates in all respects as though such copy were a certified copy purporting to be made under the hand of the Registrar-General, of an entry in a register of births.

## Quarterly **10A.** return.

[4, Law 6 of  
1977]

(1) Every court empowered to make an adoption order shall cause to be transmitted to the Registrar-General a return (hereinafter referred to as the "quarterly return"), of all adoption orders made by that court during each period of three months.

(2) The first quarterly return of any year shall be for the period commencing on the first day of January of that year and the remaining quarterly returns for that year shall be for the periods commencing on the first day of April, July and October of that year and the quarterly return for any such period shall be transmitted to the Registrar-General not later than fifteen days after the expiration of that period.

(3) Every such return shall contain the following particulars :-

(a) the name of the court;

(b) the number and the date of each application in which an adoption order has been made;

(c) the name of the adopter or the names of the joint adopters in each such adoption order;

(d) the name of the adopted child in each such adoption order;  
and

(e) the date on which each such adoption order was



communicated to the Registrar-General.

(4) If no adoption order has been made by any such court during any period for which a quarterly return has to be transmitted, such court shall transmit to the Registrar-General a nil return for that period not later than fifteen days after the expiration of that period.

Re-registration of **10B.**  
the birth of an  
adopted child.

[\[4.15 of 1992\]](#)

(1) Where a court makes an adoption order authorising two spouses jointly to adopt a child (whether such adoption order has been made before or after the coming into operation of this section) then -

- (a) such spouses; or
- (b) where the marriage of such spouses has been dissolved after the date of the adoption order, any one of such spouses; or
- (c) where both spouses are deceased and if-

(i) the child is over eighteen years of age, the child; or

(ii) the child is under eighteen years of age, the grand mother, grand father, uncle, aunt, brother or sister of the child being over eighteen years of age, or the Public Trustee or the Commissioner of Probation and Child Care Services

may, notwithstanding the fact that the birth of that child has been previously registered under the Births and Deaths Registration Act, make a written declaration in the prescribed form to the Registrar-General for the re-registration of the birth of that child by the insertion of the names of such spouses as the natural parents of that child. Every such declaration shall bear a stamp to the value of five rupees.

[\[4.15 of 1992\]](#)

(2) On receipt of a declaration under subsection (1), the Registrar-General shall, if he is satisfied that an adoption order has been made by a court in respect of the child in respect of whom such declaration has been made and the relationship of the declarant to such child, cause the birth to be re-registered in the manner prescribed.

[ 4, Law 6 of 1977]

(3) The provisions of sections 27, 27A, 28,52,56 and 57 of the Births and Deaths Registration Act, shall apply to a birth re registered under subsection (2) in like manner as they apply to a birth registered under the Births and Deaths Registration Act.

[ 4, Law 6 of 1977]

(4) Where the birth of an adopted child has been re-registered in accordance with the preceding provisions of this section, the Registrar-General shall cause the relevant entry in the Adoption Register in respect of that child to be marked with the words "Birth Re-registered" and such other particulars relating to the re-registration

of that birth as may be prescribed.

Every adopter residing outside Sri Lanka to furnish reports.

[5, 15 of 1992]

**10C.** Where the adoption of a child is authorized by an adoption order made under the proviso to subsection (6) of section 3 it shall be the duty of every such adopter to furnish to the Commissioner of Probation and Child Care Services, progress reports -

(a) quarter-yearly, in respect of the child until the adoption of such child is legally confirmed in that country;

(b) half-yearly, in respect of such child along with the child's photographs for the first three years from the date on which the adoption is legally confirmed in that country;

(c) yearly, in respect of such child until such child reaches the age of ten years,

prepared by an institution recognized by the country of such adopter and authenticated by the accredited representative for the Republic of Sri Lanka in that country.

Adoption Register not open for public inspection or search.

[5, Law 6 of 1977]

**11.**

(1) The Adoption Register and the index kept under section 10 shall not be open for public inspection or search.

(2) The Registrar-General may, in the case of an adopted child whose birth has not been re-registered under this Ordinance, furnish any person with any information contained in the Adoption Register and the index kept under section 10 or with any copy of or extract from any such register or index and, in the case of an adopted child, whose birth has been re-registered under this Ordinance, the Registrar-General shall not furnish any such information, copy or extract except under an order of court.

(3) The provisions of section 56 of the Births and Deaths Registration Act relating to the demand and issue of certified copies or certified extracts of entries and to the stamps to be supplied in respect of such copies or extracts shall apply to the demand, issue and stamping of certified copies or certified extracts under subsection (2), as if the Adoption Register and the index kept under section 10 were books kept by the Registrar-General under the Births and Deaths Registration Act.

Books, & c. **12.** The Registrar-General shall, in addition to the Adoption Register and the index thereof, keep such other books and registers and make such entries therein as may be necessary to record and make traceable the connexion between any entry in any register of births which has been marked "Adopted" in accordance with the provisions of section 10, and any corresponding entry in the Adoption Register:

Provided that no books and registers kept under this section shall be open to public inspection or search, and that the Registrar-General shall not, except under an order of a court of competent jurisdiction, furnish any person with any information contained in, or with any copy or extract from, any such register or book.

Jurisdiction, **13.**  
procedure, & c.

(1) The court having jurisdiction to make an adoption order under this Part shall be the District Court having jurisdiction in the place at which the applicant, or the child in respect of whom the application is made, resides.

(2) Rules may be made under Article 136 of the Constitution prescribing the manner in which applications to the court are to be made and the procedure to be followed in the hearing of such applications, and providing for all matters connected with or incidental to the matters aforesaid.

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

(3) The matters for which rules may be made under subsection (2) shall be deemed to be added to the list of matters in respect of which rules made under Article 136 of the Constitution.

(4) For the purpose of any application under this Part, the court shall, subject to any rules made under this section, appoint some person or body of persons to act as guardian add item of the child upon the hearing of the application with the duty of safeguarding the interests of the child before the court.

(5) For the purposes of the Civil Procedure Code and of the Stamp Ordinance or the Stamp Duty Act, No. 43 of 1982 an application to the court for an adoption order shall be deemed to be an action of the value of one hundred rupees:

Provided, however, that no stamp duty shall be chargeable in respect of any such application.

Restriction on payment. **14.** Any adopter who, except with the sanction of the court, receives, from any person or makes or gives or agrees to make or give, to any person, any payment or reward in consideration of the adoption of any child under this Part and any person who, except with the sanction of the court, receives, from any adopter or makes or gives or agrees to make or give, to any adopter, any such payment or reward shall be guilty of an offence under this Ordinance and shall, on conviction after summary trial before a Magistrate, be liable to a fine not less than twenty-five thousand rupees and not and not exceeding fifty thousand rupees or to imprisonment of either description for a term which may extend to two years, or to both such fine and imprisonment.

[\[6.15 of 1992\]](#)

[\[5.12 of 2005\]](#)

Savings as to marriage law. **15.** Nothing in this Part shall be construed to authorize any marriage that could not lawfully have been contracted if this Ordinance had not been enacted; nor shall anything in this Part contained place an adopting parent or an adopted child as against each other's relatives by consanguinity or affinity within the degrees within which marriage is prohibited by the provisions of any other written law.

Savings for adoption under Kandyan law or Tesawalamai. **16.** The provisions of this Part shall be in addition to and not in substitution of the provisions of any written or other law relating to the adoption of children by persons subject to the Tesawalamai or the Kandyan law; and notwithstanding anything to the contrary in such other law, an adoption order may be made authorizing any such person to adopt a child, and where made, shall have effect in accordance with the provisions of this Part.

Replacement of damaged or lost entries in the Adoption Register. **16A.** If any Adoption Register or any entry in that register is lost or damaged, the Registrar-General may, after inquiry, direct a copy thereof to be made, verified and certified in such manner as he may direct and thereupon such copy shall be substituted for and shall for all the purposes of this Ordinance and every other written law be deemed to be the register or the entry so damaged or lost.

[ 6, Law 6 of 1977]

#### Regulations. **16B.**

[ 6, Law 6 of 1977]

- (1) The Minister may make regulations for or in respect of any matter stated or required in this Part to be prescribed, and generally for the purpose of carrying out and giving effect to the provisions of this Part.
- (2) Every regulation shall be published in the Gazette and shall come into operation upon such publication or on such later date as may be specified in such regulation.
- (3) Every regulation shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done there under. Notification of the date on which any regulation is so deemed to be rescinded shall be published in the Gazette.

Interpretation of Part I. **17.** In this Part, unless the context otherwise requires -  
"adopter" means the person authorized by an adoption order to adopt a child, and where such an order is made in favour of a husband and wife on their joint application, means both husband and wife;  
"appointed date" means the 1st day of February, 1944; "child" means a person under the age of fourteen years;

"court" means the District Court having jurisdiction under section 13 to make an adoption order;

"guardian" in relation to a child includes any person who, in the opinion of the court, has for the time being charge of or control over the child;

[ 7, Law 6 of 1977] "prescribed" means prescribed by regulation.

## PART II

### REGISTRATION OF CUSTODIANS OF CHILDREN

Registration of persons **18.**  
having custody of  
children on appointed  
date.

(1) Save as otherwise provided in section 29, no person who on the appointed date has in his care, custody or control any child of whom he is not the natural parent, shall continue to keep the child in his care, custody or control after the expiry of a period of three months from that date unless he gives notice in the prescribed form to an authorized officer to the effect that the child is in his custody.

(2) An authorized officer shall, on receipt of a notice under subsection (1) from any person, transmit the notice to the \*Divisional Secretary of the Divisional Secretary's Division in which that person is resident; and the Divisional Secretary of the Divisional Secretary's Division shall thereupon register that person as the custodian of the child and deliver to him a certificate of registration in the prescribed form.(See section 4 of the Transfer of Powers (Divisional Secretaries) Act, No. 58 of 1992.)

(3) Nothing in the preceding provisions of this section shall be deemed to prejudice the power of a Divisional Secretary of the Divisional Secretary's Division to register any person under subsection (2) as the custodian of a child, notwithstanding that the notice given by that person under subsection (1) is received after the expiry of the period mentioned in that subsection.

(4) In this section, "authorized officer" includes any police officer for the time being in charge of a police station, and any Registrar appointed under the Births and Deaths Registration Act or the Marriage Registration Ordinance.

Registration as **19.**  
custodians of persons  
taking children into  
their custody.

(1) Save as otherwise provided in section 29, no person shall on or after the appointed date, take or receive into his care, custody or control any child of whom he is not the natural parent, unless he has been registered by an authorized officer as the custodian of that child.

(2) An authorized officer shall not register any person under this

section as the custodian of any child -

(a) unless application is made to him in the prescribed form by the applicant for such registration;

(b) unless he considers it expedient, after such inquiry as he may deem necessary, in the interests of the child that the child should be placed in the care, custody and control of the applicant;

(c) unless the parents of the child consent, or in the case of an illegitimate child, the mother consents, in the presence of the officer, to deliver the child into the care, custody and control of the applicant; and

[ 3,54 of 1943] (d) where the child is over ten years of age, unless such child consents to such registration:

Provided, however, that an authorized officer may dispense with the consent of any person whose consent is required under paragraph (c), if the officer is satisfied that the person whose consent is to be dispensed with is dead or cannot be found, or has abandoned, deserted or neglected the child, or has been adjudged by a competent court to be of unsound mind.

(3) An authorized officer shall, upon the registration by him of any person as the custodian of a child, issue to that person a certificate of registration in the prescribed form, and transmit a copy of the certificate to the Divisional Secretary of the Divisional Secretary's Division in which that person is resident.

Protected persons. **20.** Where any person is registered under this Ordinance as the custodian of a child, the child shall, until he attains the age of eighteen years, be a protected person for the purposes of this Part and the provisions of sections 21 to 26 shall apply accordingly:

Provided, however, that nothing in any of those sections shall apply in the case of any such protected person if he permanently leaves or is permanently removed from the care, custody or control of the person registered as his custodian.

Duties of registered custodians.

[4,54 of 1943]

**21.** It shall be the duty of every person who is registered as the custodian of a protected person -

(a) to provide adequate food, clothing and medical attention for the protected person;

(b) as soon as may be after the protected person is taken into his care, custody or control or attains the age of twelve years (whichever of these events is the later) to open an account at the National Savings Bank in his own name as trustee for the protected person as beneficiary, and, until the protected person attains the age of eighteen years, to deposit each month to the credit of that account, an amount determined in

accordance with such scales as may be prescribed;

(c) at the end of each successive period of six months after the aforesaid account is opened, to send for purposes of inspection to the Divisional Secretary of the Division in which he is resident the deposit book issued by the bank in respect of that account;

(d) to furnish to the Divisional Secretary of the Division in which he is resident such returns and information, relating to the protected person, as the Divisional Secretary of the Division may from time to time require him to furnish.

Special provisions as to accounts opened under section 21. **22.** Notwithstanding anything in any rule in force under the National Savings Bank Act, No. 30 of 1971 or in any other

[5,54 of 1943]

(a) in the caption or title of the account opened for the benefit of a protected person under section 21, the description "a protected person" shall be added immediately after his name; and

(b) no part of the amounts deposited to the credit of such account shall be, or be permitted by the bank to be, withdrawn, until the protected person attains the age of eighteen years.

Visits, inspections, & c. **23.** It shall be lawful for any prescribed officer or for any other person specially or generally authorized in that behalf by the Minister -

(a) from time to time to visit and examine any protected person and to make such inquiries as may be necessary relating to the treatment and welfare of the protected person; and

(b) for the purpose of any such visit, examination or inquiry, to enter and inspect at any reasonable time during the day, any premises in which the protected person is for the time being resident or employed.

Law relating to domestic servants not to apply to protected persons. **24.** A protected person shall not, while he is in the care, custody or control of the person who is registered as his custodian, be deemed to be employed as a domestic servant for the purposes of any other written law relating to the registration or wages of domestic servants.

Savings for rights of parents. **25.** The registration of any person as the custodian of any protected person shall not be deemed in any way to prejudice or affect the right of the natural parents or of the lawful guardian of the protected person to remove the protected person from the care, custody and control of the custodian.

Register of protected persons.

**26.** The Divisional Secretary of every Divisional Secretary's Division shall cause a register to be maintained in the prescribed form containing such particulars as may be prescribed relating to protected persons who are in the care, custody or control of custodians resident in that division.

Offences and penalties.

**27.**

(1) Any person who -

(a) acts in contravention of any provision of this Part;  
(b) fails or refuses to furnish any return or information when required to do so under this Part; or in furnishing any such return or information, makes any statement which he knows to be incorrect;

[6,54 of 1943] (c) fails or refuses to comply with any of the provisions of paragraphs (a), (b) and (c) of section 21; or

(d) resists or obstructs any prescribed officer or other person in the exercise of the powers conferred on such officer or person by section 23,

[5.12 of 2005]

shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not less than two thousand rupees and not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

[6, 54 of 1943]

[ 6,54 of 1943]

(2) Where any person is convicted of the offence of having failed or refused to deposit the appropriate amount to the credit of any account opened by him in accordance with the requirements of paragraph (b) of section 21, the Magistrate may, without prejudice to any punishment which may be imposed for the offence, direct that amount to be recovered from that person in like manner as a fine and when so recovered to be deposited to the credit of that account.

Prohibition against unlawful custody.

**27A.**

[7.15 of 1992]

(1) No person shall keep in unlawful custody in contravention of the provisions of this Ordinance -

(a) any woman expecting a child during her pregnancy;  
(b) any child with or without his mother, for the purpose of giving such child for adoption.

[5.12 of 2005]

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not less than fifty thousand rupees and not exceeding one hundred thousand rupees or to imprisonment of



either description for a term not exceeding two years or to both such fine and imprisonment.

## Regulations. 28.

- (1) The Minister may make regulations for or in respect of any matter stated or required in this Part to be prescribed, or for which regulations are required or authorized to be made under this Part, and generally for the purpose of carrying out or giving effect to the principles and provisions of this Part.
- (2) Every regulation shall be published in the Gazette and shall come into operation upon such publication.
- (3) Every regulation shall, as soon as may be after the date of the publication thereof in the Gazette, be brought before Parliament by a motion that such regulation be approved.
- (4) Every regulation which is approved by Parliament shall, upon the notification in the Gazette of such approval, be as valid and effectual as though it were herein enacted.
- (5) Any regulation which Parliament refuses to approve shall be deemed to be rescinded with effect from the date of such refusal, but without prejudice to the validity of anything previously done or suffered to be done there under. Notification of the date on which any such regulation is deemed to be rescinded shall be published in the Gazette.
- (6) The provisions of section 7 of the Interpretation Ordinance shall apply in relation to the power to make regulations under this section in like manner as they apply in the case of the power to make rules or issue orders under any enactment.

Application of Part II. **29.**

(1) Nothing in this Part shall apply in any case where a child is in, or is taken or received into, the care, custody or control of any person -

(a) who is a relative or the lawful guardian of the child;

(b) who adopts or has adopted the child in pursuance of an adoption order made under Part I, or has the care, custody or control of the child by virtue of an interim order made under that Part;

(c) in whose care or under whose supervision the child is placed by an order made by a court under the provisions of any other written law;

(d) who is for the time being in charge of any orphanage, hospital, home or other institution maintained by the Government, or of any other institution which is declared by notification in the Gazette under the hand of the Minister to be an approved institution for the purposes of this paragraph;

(e) who is for the time being in charge of any school which is maintained by the Government, or which is in receipt of a grant from State funds, or is declared by notification in the Gazette under the hand of the Minister to be an approved school for the purposes of this paragraph;

[18.15 of 1992](#) (ee) who is for the time being in charge of any children's home which is maintained by the Non-Governmental Organisation and which is registered with the Department of Probation and Child Care Services;

(f) who belongs to any such class of persons as may be exempted by regulation from the provisions of this Part.

(2) In this section, " relative " when used with reference to a legitimate child, means a grandparent, brother, sister, uncle, aunt or child of an uncle or aunt, by consanguinity or affinity ; and when used with reference to an illegitimate child, means any person who would be so related to the child if the child were legitimate.

Interpretation of Part II. **30.** In this Part, unless the context otherwise requires-

"appointed date" means the 1st day of February, 1944;

" authorized officer" means any Government Agent, Assistant Government Agent, Magistrate or Unofficial Magistrate or any officer of the Department of Health for the time being in charge of a

Government hospital, and includes any other officer or person who belongs to any class of persons declared by regulation to be authorized officers for the purposes of section 19 ;

" child " means a person under the age of fourteen years;

" prescribed " means prescribed by regulation;

" regulation " means a regulation made by the Minister under this Part.

