

SIGNED this 29th day of December, 1989.

J. S. MOMOH,  
*President.*



No.9



Sierra Leone

1989

**The Adoption Act, 1989**

Being an Act to provide for the adoption of children in Sierra Leone  
for connected purposes

Short title  
and

Date of

commencement

BE IT ENACTED by the President and Members of Parliament  
this present Parliament assembled, as follows:-

## PART I GENERAL

Interpreta-  
tion

1. In this Act unless the context otherwise requires  
“adoption order” means an order made under subsection (1) of Section 2;

“Court” means the High Court;

“father”, in relation to an illegitimate child means the natural father

"juvenile" means a person who is under the age of seventeen years;

“parent” includes a father as defined by this Act, and a guardian.

“relative “ relative” in relation to a juvenile, means grand parent, brother, or sister, uncle or aunt or son or daughter of an uncle or aunt, whether of the full blood or by affinity and includes:-

(a) where a) where an adoption order has been made in respect of the juvenile or any other person, any person who would be a relative of the juvenile within the meaning of this definition if the adopted person were the child of the adopted born in lawful marriage.

(b) where the juvenile is illegitimate the father of the juvenile and any person who would be a relative of the juvenile within the meaning of this definition if the juvenile were the legitimate child of his mother and father,, will includes' any kind of testamentary disposition.

Power to make  
adoption order

2. (1) Subject to the provisions of this Act, the Court may, upon an application made in the prescribed manner make an order authorising the applicant to adopt a juvenile .

(2) An adoption order may be made on the application of a husband and his wife authorising them jointly to adopt juvenile.

(3) An adoption order may be made authorising the adoption of a juvenile by the mother or father of the juvenile, either alone or jointly with her husband or his wife as the case may be.

Restrictions on  
making adoption  
orders

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

(a) has attained the age of twenty-five and is at least twenty one years older than the juvenile; or

- (b) has attained the age of twenty-one and is a relative of the juvenile, or
- (c) is the mother or father of the juvenile.

(2) An adoption order shall not be made in favour of a sole applicant who is a male unless the juvenile is a son of the applicant or the Court is satisfied that there are special circumstances which justify an exceptional measure the making of an adoption order in such a case.

(3) Except as provided by Section 2, an adoption order shall not be made authorising more than one person to adopt a juvenile.

(4) An adoption order shall not be made in respect of a juvenile unless-

- (a) the applicant and the juvenile reside in Sierra Leone; and
- (b) the juvenile has been, continuously in the care and possession of the applicant for at least six consecutive months immediately preceding the date of the order; and
- (c) the applicant has at least six months before the application for the adoption order notified the Chief Social Development Officer of his intention to apply for an adoption order.

4. (1) Subject to the provision of this section, an adoption order shall not be made except with the consent of every person who is a parent of the juvenile

Consent of  
parent to adoption

(2) The Court may dispense with the consent of any parent of the juvenile if the Court is satisfied that he has abandoned, neglected or persistently ill-treated the juvenile or that he cannot be found or is incapable of giving his consent or that his consent is unreasonably withheld.

(3) If, in the case of an application made within one year from the date of the commencement of this *Act*, it is shown to the satisfaction of the Court that during the period of four years ending with the date of the application the juvenile has been brought up, maintained and educated under any *de facto* adoption (whether by one person or by a husband and wife jointly) the Court may dispense with the consent of any parent of the juvenile

(4) Any consent under this section may be given either unconditionally or subject to conditions with respect to the religious persuasion in which the juvenile is to be brought up without knowing the identity of the applicant for the adoption order, and where consent so given by any person is subsequently withdrawn on the grounds 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.

(5) While an application for an adoption order in respect of a juvenile is pending in any Court, any parent of the juvenile who has signified his consent to the making of an adoption order, in pursuance of the application shall not be entitled, with the leave of Court, to remove the juvenile 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 juvenile.

Other consents

5. (1) Where it appears to the court that any person who is not the parent of the juvenile has, under any order of a court or agreement, or under customary law or otherwise, any right or obligation in respect of the juvenile the court may, if it think fit, require that the persons consent shall be obtained before the adoption order is made

(2) Where a married man or woman is the sole applicant for an adoption order, the Court may, if it thinks fit require that the consent of any wife or husband of the applicant as the case may be, be obtained before the adoption order is made.

(3) It shall be the duty of the Chief Social Development Officer to prepare a report to assist the Court on an application for an adoption order to determine whether any person who is not a parent of the juvenile has any rights or obligations in respect of the juvenile and whether that person's consent ought to be obtained for the adoption order.

Functions

of court as to

Adoption orders

6. (1) The court before making an adoption order shall be satisfied-

(a) that every person whose consent is required under Section 4, and whose consent is not dispensed with, has consented to and understands the nature and effect of the adoption order for which the 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 right;

## *Adoption*

- (b) that the order, if made, will be for the welfare of the juvenile, due consideration for this purpose being given to the wishes of the juvenile having regard to the age and understanding of the juvenile; and
  - (c) that the applicant has not received or agreed to receive , and that no person has made or agreed to make to the applicant, any payment or other reward in consideration of the adoption except such as the court may order.
- (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 juvenile such provisions (if any) as in the opinion of the Court is just and expedient .
7. (1) Subject to the provisions of 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 juvenile 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, education and supervision for the welfare of the juvenile and otherwise as the Court may think fit.
- (2) The Court shall impose as conditions under subsection (1)-
- (a) that the juvenile shall be under the supervision of an officer appointed by the Chief Social Development Officer, and
  - (b) that the juvenile shall not be taken out of Sierra Leone without the leave of the court.
- (3) All such consents as are required to an adoption order shall be necessary for an interim order but subject to a like power on the part of the Court to dispense with any such consent
- (4) An interim order shall not be made in any case where the making of an adoption order would be unlawful by virtue of subsection (4) of Section 3.
- (5) An interim order shall not be deemed to be an adoption order within the meaning of this Act.

Application to  
a person who is  
not a citizen of  
Sierra Leone

8. Where the applicant or, in the case of a joint application either of the applicants is not a citizen of Sierra Leone, the Court shall in exercise of its powers under section 7 postpone the determination of the application and make an interim order for a period of not less than six months.

Children  
Previously adopted

9 An adoption order or an interim order, may be made in respect of a juvenile who has already been the subject of an adoption order and the adopter under the previous adoption shall, if alive; be deemed to be the parent of the juvenile for all the purposes of this Act.

Jurisdiction  
and procedure

10 (1) An application for an adoption shall be made to the Court.

(2) The Chief Justice may make, rules in regard to any matter to be prescribed under this Act and dealing generally with all matters of procedure and incidental matters arising out of this Act or for carrying this Act into effect.

3) Rules under this section shall, among other things provide-

(a) for the proceedings to be otherwise than in open court, except in such exceptional circumstances as may be provided for by the rules.

(b) for the admission of documentary evidence of any consent required under Section 4 and Section 5;

(c) for the admission in evidence of a certified copy of any entry in the Adopted Children Register;

(d) prescribing the form of the direction to be given in an adoption order as to making an entry in that Register, and the manner in which the making of an adoption order shall be communicated to the Administrator and Registrar-General;

(e) for requiring the Chief Social Development Officer to represent the interests of the juvenile in any proceedings with respect to an adoption order or an interim order;

(f) for requiring the Chief Social Development Officer to prepare for the consideration of the Court on an application for an adoption order a report for the assistance of the Court in determining whether the order will be for the welfare of the juvenile.

- (g) as to searches in the Adopted Children Register and the fees to be charged in respect of the services made available in connection with that Register,
- (h) for recording adoptions against entries in the Register of Births.

11. (1) On the decision by a court on an application for the making of an adoption order, other than a decision to postpone the application and make an interim order, any person aggrieved may, subject to rules of court and subject to the rules of court and subject to the provisions of the Courts Act, 1965 appeal to the Court of Appeal.

Appeals Act  
No 31 of 1965

(2) On any decision of the Court on an application for an adoption order, any person aggrieved may appeal to the Court of Appeal,

12. (1) Upon an adoption order being made – Right and

(a) all rights, duties obligations and liabilities including any arising under customary law and practice of the parents of juvenile, or of any other person in relation to the future custody, maintenance and education of the juvenile (including all rights to appoint a guardian and to consent or give notice of dissent to marriage) shall be extinguished; and Duties of  
parent and  
other person

(b) there shall vest in and be exercisable by and enforceable against, the adopter all such rights, duties, obligation and liabilities in relation to the future custody, maintenance and education of the juvenile as would vest in him if the juvenile were a child born to the adopter in lawful marriage .

(2) In respect of custody, maintenance and education, the juvenile shall stand to the adopter exclusively in the position of a child born to the adopter in lawful marriage.

(3) In a case where a husband and his wife are the adopters, they shall in respect of the custody, maintenance and education of the juvenile, and for the purpose of the jurisdiction of any Court to make orders as to the custody and maintenance of and rights of access to the juvenile, stand to each other and to the juvenile in the same relation as they would have stood if they had been the lawful father and mother of the juvenile and the juvenile shall stand to them respectively in the same relation as a lawful father and mother respectively .

## PART II -DEVOLUTION OF PROPERTY

Intestacies

13. 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 property for which he might have disposed of by will, that property shall devolve in all respect as if he the adopted person were the child of the adopter born in lawful marriage and were not the child of any other person.

Construction of settlements and wills

14. (1) In any disposition of property, whether or not reduced to writing made after the date of an adoption order-

(a) any reference whether expressed or implied to the child or children of the adopter shall, unless the contrary, intention appears, be construed as, or including a reference to the adopted person;

(b) any reference (whether expressed 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 expressed 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 that were the child of the adopter born in lawful marriage and were not the child of any other person.

(2) A disposition made by will executed before the date of the adoption order shall not be treated for the purposes this section as made after that date by reason only that the will is confirmed by codicil executed after that date.

15. (1) Notwithstanding anything in Sections 13 and 14, 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, but nothing: in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person other than a purchaser without notice, who may have received it.

(2) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of Sections 13 and 14, in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent order, and in relation to any disposition of property made after that date.

16. (1) An adoption order shall not have effect to make the adopted person a member of any clan, lineage or other group recognised under customary law and practice, but if the adopter is a person subject to customary law and practice, then as from the date, of the adoption order, the adopted person shall be a person subject to customary law and practice and all such rules of customary law and practice (including those relating to intestacy) as applied in the case of the adopter shall apply in the case of the adopted person.

(2) Except as provided by subsection (1), a person adopted under an adoption order shall not, after the date of the adoption order, be a person subject to customary law and practice and except as so provided, no rules of customary law and practice shall apply in his case.

(3) In the case of a joint adoption by a husband and wife, references in this section to the adopter shall be taken as references to the husband

### PART III-MISCELLANEOUS

17. Where an adoption order is made in respect of a juvenile in respect of whom a fit person order made by a Juvenile Court is in force, committing the juvenile to the care of any person, the fit person order shall cease to have effect.

Effect on fit  
person's orders

18. (1) The Administrator and Registrar-General shall maintain at the office of the Administrator and Registrar-General a register to be called the Adopted Children Register in which shall be made such entries as may be directed to be made therein register by adoption orders but no other entries.

Adopted  
children  
register

(2) The Administrator and Registrar-General may by Public Notice make rules with respect to the Adopted Children Register and with respect to entries in the Register of Births relating to adopted persons and, in particular, rules with respect to amendment, and rectifications of the Adopted Children Register.

(3) The Administrator and Registrar-General shall, in addition to the Adopted Children Register, keep such other Register and books and make such entries therein, as may be necessary to record and make

traceable the connection between any entry in the Register of Births which has been marked "adopted" in pursuance of rules under this section, and any corresponding entry in the Adopted Children Register, but the Registers and books kept; under the provisions of this subsection shall not, nor shall any index thereof be open to public inspection and search, nor, except under any order by the Court, shall the Administrator and Registrar General furnish any person with any information contained in, or with any copy or extract from, such Registers or books.

Provision of  
certain  
payments

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

(2) It shall not be lawful for an adopter, or for a parent of a juvenile to receive or agree to receive any payment or other reward for making or facilitating any arrangement under which a juvenile is placed in the care and possession of a person who is also not the parent of the juvenile, whether or not the arrangements will lead to the adoption of the juvenile

(3) A person who contravenes this section shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding five thousand Leones, or to both such fine and imprisonment.

Restriction on  
sending juvenile  
abroad for adoption

20 .(1) Except under the authority of an order made under Section 21, it shall not be lawful for any person to permit, or to cause or procure the care and possession of a juvenile to be transferred to a person who is resident outside Sierra Leone and who is not the guardian or a relative of the juvenile, if he knows or had reason to believe that the person to whom the care and possession of the juvenile is transferred has entered into any agreement or arrangement with the parent of the juvenile or with any other party which will or may lead to the adoption of the juvenile under the law of any country outside Sierra Leone.

(2) A person who contravenes the provisions of this section shall be liable on conviction to a fine of not less twenty thousand leones or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

21. (1) Subject to the provisions of this section, the Court may, upon the recommendation of the Chief Social Development Officer, and subject to such conditions and restrictions as it may deem fit, make an order authorizing the care and possession of the juvenile for whom an adoption order has been made to be transferred to a person ~~person~~ <sup>Adoption</sup> ~~person~~ <sup>No. 9</sup> not outside Sierra Leone.
- (2) An order shall not be made under this section unless the court is satisfied that any person whose consent is required under section 4 for the making of an adoption order has in fact consented to the application under this section:  
Provided that the consent of that person can properly be dispensed with in accordance with section 4.
- (3) An order shall be made under this section unless the court is satisfied that the person to whom the care and possession of the juvenile is proposed to be transferred is a suitable person to be entrusted therein, and the transfer is likely to be for the welfare of the juvenile, due consideration, for this purpose, being given to the wishes of the juvenile, having regard to the age and understanding of the juvenile.

Passed in parliament this 21<sup>st</sup> day of December, in the year of our Lord one thousand nine hundred and eighty-nine.

C. B. FOFANA *Clerk*  
*of Parliament*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by true and correctly printed Copy of the said Bill.

**C. B Fofana**  
Clerk of Parliament