

# NATIONAL ADOPTION COUNCIL ACT

Act 21 of 1987 – 1 January 1988

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## NATIONAL ADOPTION COUNCIL ACT

### 1. Short title

This Act may be cited as the National Adoption Council Act.

### 2. Interpretation

In this Act—

“Board” means the Board referred to in section 5;

“citizen” means a citizen of Mauritius who has not attained the age of 18;

“Council” means the National Adoption Council established under section 3;

“member” means a member of the Board;

“Minister” means the Minister to whom responsibility for the subject of adoption is assigned.

[S. 2 amended by Act 31 of 1991; Act 3 of 92; Act 40 of 1992; Act 15 of 1998.]

### 3. Establishment of Council

(1) There is established for the purposes of this Act a National Adoption Council.

(2) The Council shall be a body corporate.

### 4. Objects of Council

The objects of the Council shall be to—

- (a) inquire into all demands for the adoption of citizens by non-citizens before any application is made to the Judge in Chambers;

- (b) advise the Minister on all matters relating to demands referred to in paragraph (a);
- (c) coordinate with overseas official agencies engaged in the adoption and welfare of children.

## **5. The Board**

- (1) The Council shall be administered by a Board.
- (2) The Board shall consist of—
  - (a) a Chairperson who shall be appointed by the Minister;
  - (b) a Vice-Chairperson who shall be appointed by the Minister;
  - (c) a representative of the Ministry responsible for the subject of social security;
  - (d) a representative of the Prime Minister's Office;
  - (e) a representative of the Attorney-General's Office;
  - (f) a representative of the Ministry responsible for the subject of external affairs;
  - (g) a representative of the Ministry responsible for the subject of family welfare;
  - (h) a representative of the Ministry responsible for Rodrigues;
  - (i) the Chief Probation Officer;
  - (j) a representative of the Commissioner of Police;
  - (k) 2 representatives of recognised charitable institutions, appointed by the Minister; and
  - (l) 2 independent members, appointed by the Minister.
- (3) The Board shall regulate its meetings and proceedings in such manner as it thinks fit.
- (4) Six members shall constitute a quorum.  
[S. 5 amended by Act 31 of 1991; Act 40 of 1992.]

## **6. Demand for adoption**

- (1) Notwithstanding the Code Napoléon, no non-citizen shall make an application to the Judge in Chambers for the adoption of a citizen unless he is authorised in writing to do so by the Council.
- (2) Where a non-citizen wishes to adopt a citizen, he shall submit to the Council a demand on such form as may be approved by the Council together with the fee and deposit specified in the Schedule.
- (3) Upon receipt of a demand under subsection (2), the Council shall make such inquiry and call for such information in such form as the Council may deem fit and the Council shall hear, and pronounce itself on, the application within 60 days of the demand.
- (4) Where the Council is satisfied, having regard to all the circumstances surrounding a demand, that possibilities for placement of the child within Mauritius have been given due consideration and that the demand will be in the interests of the child, the Council shall authorise an application for adoption to be made to the Judge in Chambers.
- (5) In all other cases, the Council shall notify the non-citizen that his demand has been rejected.
- (6) Any person who is aggrieved by the rejection of a demand may appeal to the Judge in Chambers within 21 days of receipt of the notice of rejection.

(7) A deposit furnished under subsection (2) shall—

- (a) where the citizen, in respect of whom an application for adoption has been authorised by the Council, is not permitted to stay in the country of the applicant, be used to cover the costs and expenses of his repatriation; or
- (b) in any other case, be refunded upon satisfactory evidence being furnished to the effect that the citizen in respect of whom an application for adoption has been authorised by the Council has been allowed to stay in the country of the applicant for an indefinite period.

(8) No person shall remove from Mauritius any citizen in respect of whom a demand of adoption has been made until an application for adoption to the Judge in Chambers has been approved.

[S. 6 amended by Act 31 of 1991; Act 3 of 1992; Act 29 of 1992; Act 40 of 1992; Act 15 of 1998.]

#### **6A. Prohibition of certain payments**

(1) Subject to subsection (2), no person who—

- (a) being a non-citizen, adopts a citizen;
- (b) gives his consent for the adoption of a citizen by a non-citizen;
- (c) transfers the care and control of a citizen with a view to his adoption by a non-citizen;
- (d) makes any arrangement for the adoption of a citizen by a non-citizen,

shall offer, make or receive any payment or reward for and in consideration of the adoption of the citizen.

(2) Subsection (1) shall not apply to a person who *bona fide* receives a fee in his professional capacity.

[S. 6A amended by Act 40 of 1992.]

#### **7. Staff of Council**

The Council shall, with the approval of the Minister, appoint on such terms and conditions as he may determine, such staff as the Council may deem necessary for the proper discharge of its functions.

[S. 7 amended by Act 31 of 1991.]

#### **8. General Fund**

The Council shall establish a General Fund—

- (a) into which all monies received by the Council shall be paid; and
- (b) out of which all payments required to be effected by the Council may be made.

#### **9. Execution of documents**

No document shall be executed by or on behalf of the Council unless it is signed by the Chairperson and such other member as the Board may designate.

#### **10. Exemption**

Notwithstanding any other enactment, the Council shall be exempt from payment of all charges, duties, fees, rates or taxes.

#### **11. Powers of Minister**

The Minister may give such directions of a general character to the Council, not inconsistent with this Act, and the Council shall comply with these directions.

## 12. Service of process

Service of process on or on behalf of the Council shall be made on or on behalf of the Chairperson.

## 13. Regulations

The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act; and
- (b) by regulations, amend the Schedule.

## 14. Offences

Any person who contravenes this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 14 amended by Act 40 of 1992.]

15. – 16. —

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### Schedule

[Section 6]

	Rs
Fee .....	5,000
Deposit .....	20,000

[Sch. amended by Act 40 of 1992.]

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