

ISSN 0856-035X

THE UNITED REPUBLIC OF TANZANIA

BILL SUPPLEMENT

No. 13

10th July, 2009

to the Gazette of the United Republic of Tanzania No. 28 Vol. 90 dated 11th July, 2009

Printed by the Government Printer, Dar es Salaam, by Order of Government

THE LAW OF THE CHILD ACT, 2009

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Application.
3. Interpretation.

PART II

RIGHTS AND WELFARE OF THE CHILD

(a) Right of a child

4. Construction of "the child".
5. Non-Discrimination.
6. Right to name and nationality.
7. Right to grow up with parents.
8. Duty to maintain a child
9. Parental duty and responsibility.
10. Right to parental property.
- II. Right of opinion.
12. Harmful employment.
13. Protection from torture and degrading treatment.
14. Penalty for contravention.

Law of the Child

(b) General Duty of a Child

- IS. Duty and responsibility of a child.

PART III

CARE AND PROTECTION OF A CHILD

16. Meaning of child care and protection and grounds for care orders.
17. Child protection
18. Care order of court to be of benefit to a child.
19. Supervision order of court.
20. Duties of social welfare officer.
21. Home visits.
22. General provisions on orders.
23. Discharge of orders.
24. Care order and adoption.
25. Objective of a care order.
26. Child rights when parents separate

PART IV.

FOSTER CARE PLACEMENT

27. Parental responsibility of patron, manager or foster parent.
28. Exclusion order.
29. Enforcement of exclusion order.
30. Offence to remove a child without authority.
31. Social investigation report.
32. Conditions for foster care.
33. No publication of information and photograph of a child.

PART V

PARENTAGE, CUSTODY, ACCESS AND MAINTENANCE

34. Application for parentage.
35. Evidence of parentage.
36. Medical test.
37. Custody.
38. Access.
39. Considerations for custody or access~
40. Unlawful child removal.
41. Duty to maintain a child.
42. Application for maintenance order.

Law of the Child

43. Maintenance *order* against alleged biological father
44. Consideration *for* maintenance *orders*.
45. Request *for* social enquiry report.
46. Persons entitled *to* administer maintenance order.
47. Duration *of* maintenance order.
48. Continuation *of* maintenance orders in certain cases.
49. Court may vary or discharge orders.
50. Non-custodial parent *to* have access *to* a child.
51. Offences under this Part.

PART VI

FOSTERAGE AND ADOPTION

52. Person who can foster.
53. Condition *for* foster-care placement.
54. Powers *to* make adoption order.
55. Application *for* adoption.
56. Restrictions on making adoption orders.
57. Can sent of parents and guardians.
58. Other consent.
59. Conditions *for* adoption order.
60. Interim order.
61. Knowledge of adoption by child.
62. Application by non-resident.
63. Children previously adopted.
64. Effect *of* adoption on parental rights.
65. Devolution *of* property on intestacy.
66. Testamentary disposition.
67. Supplementary provisions on intestacy and testamentary disposition.
68. Adoption order and customary law.
69. Adopted Children Register.
70. Registration *of* adoptions.
71. Amendment *of* orders and rectification *of* Registers.
72. Prohibition *of* payment and reward on adoption.
73. Notice *to* be given *to* send a child abroad.
74. Adoption by foreigners.
75. Rules *for* adoption.
76. Restriction on publication advertisement.

PART VII

~

Law of the Child

EMPLOYMENT OF A CHILD

(a) Employment of the child

- 77. Child's right to work.
- 78. Prohibition of exploitative child labour.
- 79. Prohibition of child labour at night.
- 80. Prohibition of forced labour.
- 81. Right to remuneration.
- 82. Minimum age for hazardous employment.
- 83. Prohibition of sexual exploitation.
- 84. Application.
- 85. Registration of a child in industrial undertakings.
- 86. Enforcement.

(b) Apprenticeship

- 87. Right to acquire vocational skills
- 88. Minimum age for apprentices.
- 89. Responsibilities of craftsman.
- 90. Apprenticeship agreement.
- 91. Duties of apprentice.
- 92. Release of apprentice.
- 93. Dispute resolution.

PART VIII

SUPPORT SERVICES FOR A CHILD BY LOCAL GOVERNMENT AUTHORITIES

- 94. Duty of Local Government Authorities to safe-guard children and promote reconciliation between parents and a child.
- 95. Duty to report infringement of child's rights.
- 96. Investigation by Department.

PARTIX

A CHILD IN CONFLICT WITH LAW

(a) Juvenile Court

- 97. Establishment of Juvenile Court.
- 98. Jurisdiction of Juveniles Court.
- 99. Procedure in Juvenile Court.
- 100. Proceedings in Juvenile Courts.
- 101. Bail for a child.

-

Law a/the Child

- 102. Association with adults whilst in custody.
- 103. Juvenile court may dispose of all cases other than homicide.
- 104. Children may be remanded to the care of a fit person or institution.
- 105. Court's duty to explain charge.
- 106. Accused to be asked to show cause.
- 107. Accused may be convicted on plea of guilty.
- 108. Attendance, appearance and hearing in juvenile court.
- 109. Cross-examination of witness.
- 110. Defence.
- III. Procedure upon conviction.
- 112. Attendance at court of parent of child charged with an offence.
- 113. Determination of age.
- 114. Persons appearing to be of the age of eighteen years or more.

(b) A child as a witness

- 115. Child witness.

(c) Custodial Sentence

- 116. Probation orders.
- 117. Provision in case of a child failing to observe conditions of release.
- 118. Power to order parent to pay fine instead of child.
- 119. Prohibition of custodial sentence and alternative punishments.

(d) Alternative Sentences

- 120. When approved school order may be made.

PART X

APPROVED SCHOOLS

- 121. Approved schools.
- 122. Appointment of Board of Visitors.
- 123. Power of Board.
- 124. Approved school orders.
- 125. Suspension of approved school orders.
- 126. Authority for detention.
- 127. Extension of period of detention.
- 128. Power of manager to bring persons detained before a court.
- 129. Discharge and transfer from approved school.

Law of the Child

- 130. Time for appeal.
- 131. Approved school order to take effect pending consideration by High Court.
- 132. Power to make rules.

PART XI

INSTITUTIONALISED CARE

(a) Approved residential homes or institutions

- 133. Approval of residential homes.
- 134. Monitoring of homes and institutions.
- 135. Power of the Commissioner to give directives to homes.
- 136. Inspection of approved residential homes.
- 137. Admission of children to approved residential homes.
- 138. Parental responsibility of staff of approved residential homes.
- 139. Power of court to order contribution.
- 140. Cancellation of the licence for approved residential homes.
- 141. Right to be heard.
- 142. Reasons for decision to be given.
- 143. Approved residential homes and adoption.
- 144. A mother in prison with a child.
- 145. Minister to make regulations for homes.
- 146. Offences and Penalties.

(b) Day-care centres and creches

- 147. Application to operate day-care centre and creche.
- 148. Prohibition of certain persons to operate day care centres.
- 149. Registration of owners of centres and creches.
- ISO. Register of the day care centres and creches.
- IS\ . Department to inspect.

PART XII

MISCELLANEOUS PROVISIONS

- 152. By-laws and guidelines.
- 153. Directives.
- 154. Existing operators.
- 155. Offences and penalties.
- 156. Appeals.
- 157. Regulations.

Law of the Child

158. Repeals and savings.

PART XIII
CONSEQUENTIAL AMENDMENTS

(a) Sub Part I

159. Construction. Cap.29.
160. Amendment of section 2.
161. Amendment of section 17.
162. Amendment of section 39.
163. Amendment of section 64.
164. Amendment of section '67.

(b) Sub Part II

165. Construction. Cap.353.
166. Amendment of section 35
167. Amendment of section 59.
168. Amendment of section 60

(c) Sub Part IJJ

169. Construction. Cap.366.
170. Amendment of section 5.

(d) Sub Part IV

171. Construction. Cap.16.
172. Amendment of section 15.
173. Amendment of section 17.
174. Amendment of section 130.
175. Amendment of section 131.
176. Amendment of section 138.
177. Amendment of section 138B.
178. Amendment of section 138C.
179. Amendment of section 141.
180. Amendment of section] 42.
181. Amendment of section 144.
182. Amendment of section 147.
183. Amendment of section 154.
184. Amendment of section 156.
185. Amendment of section] 60.

.....

Law of the Child

- 186. Amendment of section 166.
- 187. Amendment of section 167.
- 188. Amendment of section 169.
- 189. Amendment of section 245.
- 190. Amendment of section 252.

(e) Sub Part V

- 191. Construction. Cap 20.
- 192. Amendment of section 188.

SCHEDULES

Law of the Child

NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Oar es Salaam,
gthJuly,2009

PHILLEMOM L. LUHANJO,
Secretary to the Cabinet

A BILL
for

An Act to provide for reform and consolidation of laws relating to children, to stipulate rights of the child and to promote, protect and maintain the welfare of a child with a view to giving effect to international and regional conventions on the rights of the child; to provide for affiliation, foster care, adoption and custody of the child; to further regulate employment and apprenticeship; to make provisions with respect to a child in conflict with law and to provide for related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

Short title and
commence-
ment

1. This Act may be cited as the Law of the Child Act, 2009.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Law of the Child

- Application 2. This Act shall apply to Mainland Tanzania in relation to the promotion, protection and maintenance of the welfare and rights of the child.
- Interpretation 3. In this Act, unless the context otherwise requires -
- "approved residential home" means a licensed home whereby a child is given a substitute temporary family care;
- "approved school" means a school established under this Act and includes any place or institution declared as such under the provisions of this Act;
- "basic education" means formal education provided to a child to the level that may be prescribed from time to time;
- "child abuse" means contravention of the rights of the child which causes physical, moral or emotional harm including beatings, insults, discrimination, neglect, sexual abuse and exploitative labour;
- "child development" in relation to the welfare of the child, means the process of change during which a child is able to reach his physical, mental, emotional and social potentials the development of each of such dimensions is simultaneously through continued life time interaction with the environment;
- "child with disabilities" means a child who has long term physical, mental, intellectual or sensory impairment which hinders his full and effective participation on equal basis with others;
- "Commissioner" means the Commissioner for Social Welfare;
- "court" means -
- (a) a primary court, the District Court, the Resident Magistrates Court or the High Court;
 - (b) for purposes of adoption, the High Court; and
 - (c) for purposes of parentage, a Juvenile court;
- "craftsman" means a person who trains and instructs an apprentice in a trade;
- "day-care centre" means any early childhood development establishment registered for purposes of receiving and looking after children below the age of five years for the day or a substantial part of the day with or without a fee and includes a creche;
- Cap. 389 "destitute" shall have a meaning ascribed to it under the Destitute Persons Act;

Law of the Child

Cap.287
Cap 288

"distriu" shall have the meaning ascribed to it under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;

"family" means parental father, mother and children, adopted or blood related and other close relatives including grandfather, grandmother, uncles, aunties, cousins nephews, and nieces who live 'in a household:

"fit person" means a person of full age who is of high moral character and integrity and of sound mind who is not a relative of the child and capable of looking after a child, and has been approved by a social welfare officer as being able to provide a caring home for a child;

"foster care or fosterage" means a temporary measure provided on voluntary basis by the family and individual who is not related to a child to discharge care and protection to the child;

"guardian" means a person who has a charge or control over a child or a person appointed by deed, will or order of the court vested with the duty of taking care and managing the property and rights of the child;

"hazardous work" means any work which places a child at risk to suffer physical or mental injury.

"home" means, in respect of the child, place where in the opinion of the court having cognizance of any case relating to the child or in which the child is concerned, the child's parent or guardian who has a permanent known residence, where there is no parent or guardian living, child's parent or guardian last permanent residence, except that:

(a) in the case of a parent or guardian with more than one permanent place of residence, such parent or guardian shall be presumed to be or to have been permanently resident at the place of his principal permanent residence;

(b) where the court is unable to determine the home of any such person, he shall be deemed for the purposes of this Act to have his home in the area of jurisdiction of the local authority in whose area the child is found;

"institution" means an approved residential home, remand home,

Law of the Child

- approved schools or institution for socially deprived children and street children and includes a person or institution that has care and control of children;
- "Juvenile Court" means a court established under section 97;
- "Minister" means the Minister responsible for children affairs;
- "next friend" means a person who intervenes to assist a child to bring a legal action and includes a guardian *adrem litem*;
- Cap.56 "Non-Governmental Organisation" shall have a meaning ascribed to it under the Non-Governmental Organizations Act;
- "orphan" means a child who has lost both parents or a parent through death;
- "parent" means a biological father or mother, the adoptive father or mother and any other person under whose care a child has been committed;
- Cap. 108 "Registrar-General" means the Registrar-General of Births and Deaths appointed in accordance with the provisions of the Births and Deaths Registration Act;
- "retention home" means a place where a child is safely accommodated while his case is being considered;
- "relative" means a grandparent, grandmother, brother, sister, cousin, uncle, auntie or any other member of the extended family;
- "social welfare officer" means a social welfare officer in the service of the Government;
- Cap.300 "sectoral minimum wage" means a minimum wage determined by a sectoral wage board to specific sector in accordance with section 39 of the Labour Institution Act;

PART II

RIGHTS AND WELFARE OF A CHILD

(a) *Right of a child*

Construction of "the child"

4.-(1) A person below the age of eighteen years shall be known as a child.

(2) The best interest of a child shall be the primary consideration in all actions concerning a child whether undertaken by public or private social welfare institutions, courts or administrative bodies.

Law of the Child

Non-discrimination

5.-(I) A child shall have a right to live free from any discrimination.

(2) A person shall not discriminate against a child on the grounds of gender, race, age, religion, disability, health status, custom, ethnic origin, rural or urban background, birth, socio-economic status, being a refugee or of other status.

Right to name and national it}

6.-(I) A child shall have a right to a name, nationality or to know his biological parents and extended family.

(2) A person shall not deprive a child of the right to a name, nationality and to know his biological parents and members of extended family subject to the provisions of Part IX of this Act or any other written laws.

(3) Each parent or guardian shall be responsible for the registration of the birth of his child to the Registrar-General.

Right to grow up with parents

7.-(J) A child shall be entitled to live with his parents or guardians.

(2) A person shall not deny a child the right to live with his parents, guardian or family and grow up in a caring and peaceful environment unless it is decided by the court that living with his parents or family shall -

- (a) lead a significant harm to the child;
- (b) subject the child to serious abuse; or
- (c) not be in the best interest of the child.

(3) Subject to the provisions of subsections (1) and (2), where a competent authority or a court determines in accordance with the laws and procedures applicable that it is in the best interests of the child to separate him from his parent, the best substitute care available shall be provided for the child.

Duty to maintain a child

8.-(1)It shall be the duty of a parent, guardian or any other person having custody of a child to maintain that child in particular that duty gives the child the right to -

- (a) food;
- (b) shelter;
- (c) clothing;
- (d) medical care including immunization;
- (e) education and guidance;
- (f) liberty; and
- (g) right to play and leisure.

Law of the Child

(2) A person shall not deprive a child access to education, immunisation, food, clothing, shelter, health and medical care or any other thing required for his development.

(3) A person shall not deny a child medical care by reason of religious or other beliefs.

(4) A person shall not deprive a child the right to participate in sports, or in positive cultural and artistic activities or other leisure activities unless in the opinion of the parent, guardian or relative such participation or activity is not in the best interest of the child;

(5) A person shall not treat a child with disabilities in an undignified manner.

(6) A child with disabilities shall be entitled to special care, treatment, affordable facilities for his rehabilitation and equal opportunities to education and training wherever possible to develop his maximum potential and be self-reliance.

Parental duty
and
responsibility

9,-(1) A child shall have the right to life, dignity, respect, leisure, liberty, health, education and shelter from his parents.

(2) The right to leisure and liberty by the child shall be subject to guidance and ability of a parent, guardian or relative;

(3) Every parent shall have duties and responsibilities whether imposed by law or otherwise towards his child which include the duty to -

(a) protect the child from neglect, discrimination, violence, abuse, exposure to physical and moral hazards and oppression;

(b) provide guidance, care, assistance and maintenance for the child and assurance of the child's survival and development;

(c) ensure that in the temporary absence of a parent, the child shall be cared for by a competent person, except where the parent has surrendered his rights and responsibilities in accordance with a written law or any traditional or customary arrangement.

(4) Where biological parents of a child are deceased, parental responsibility may be passed on to a relative of either parent or a custodian by way of court order or any traditional arrangement.

Law of the Child

Right In
parental
property

10. A person shall not deprive a child of reasonable enjoyment out of the estate of a parent.

Right of
opinion

11. A child shall have a right of opinion and no person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being.

Harmful
activity

12. A person shall not employ or engage a child in any activity that may be harmful to his health, education, mental, physical or moral development.

Prohibition
from torture
and degrading
treatment

13.-(1) A person shall not subject a child to torture, or other cruel, inhuman punishment or degrading treatment including any cultural practice which dehumanizes or is injurious to the physical and mental well-being of a child.

(2) No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child is by reason of tender age or otherwise incapable at understanding the purpose of the correction.

(3) The term "degrading treatment" as used in this section means an act done to a child with the intention of humiliating or lowering his dignity.

Penalty for
contravention

14. A person who contravenes any provision of this Part, commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

(b) General Duty of a Child

Duty and
responsibility
of a child

15. Notwithstanding any provisions of this Act, a child shall have a duty and responsibility to -

(a) work for the cohesion of the family;

Law of the Child

- (b) respect his parents, guardians, superiors and elders at all times and assist them in case of need;
- (c) serve his community and nation by placing his physical and intellectual abilities at its service in accordance with his age and ability;
- (d) preserve and strengthen social and national cohesion; and
- (e) preserve and strengthen the positive cultural values of his community' and the nation in general in relation to other members of the community or the nation.

PART III

CARE AND PROTECTION OF A CHILD

Meaning of child care and protection and grounds for care orders

16.-(1) For the purposes of this Act, a child is in need of care and protection if that child-

- (a) is an orphan or is abandoned by his relatives;
- (b) has been neglected or ill-treated by the person who has the care and custody of the child or by his guardian or parents;
- (c) has a parent or guardian who does not exercise proper guardianship;
- (d) is a destitute;
- (e) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child;
- (f) is wandering and has no home or settled place of abode;
- (g) is begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise, or is found in any street, premises or place for the purpose of begging or receiving alms;
- (h) accompanies any person when that person is begging or receiving alms, whether or not there is any pretence of singing, playing, performing,

Law of the Child

Cap 432

- offering anything for sale or otherwise;
- (i) is under a care of a destitute parent;
- U> frequents the company of any reputed criminal or prostitute;
- (k) is residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of, or affect the morality of the child;
- (l) is a person in relation to whom an offence has been committed or attempted under the Anti Trafficking of Persons Act;
- (m) is found acting in a manner from which it is reasonable to suspect that he is, or has been, soliciting or importuning for immoral purposes;
- (n) is below the age of criminal responsibility and is involved in an offence other than a minor criminal matter;
- (o) is otherwise exposed to moral or physical danger;
- (p) is under a care of a person with disability and such disability hinders such person from exercising proper care or guardianship; or
- (q) in any other environment as the Commissioner may determine.

Child protection

17.-(1) A person, being an owner or occupier who runs or is in-charge of a discotheque, bar or night club, shall not allow a child to enter into the discotheque, bar or night club.

(2) A person shall not sell cigarettes, alcohol, any spirit, drugs or any intoxicating substance to a child.

(3) A person who contravenes the provisions of this section, commits an offence and shall on conviction be liable to a fine not less than one million shillings but not exceeding five million shillings or to imprisonment for a term not exceeding twelve months or to both.

Care order or court to be of benefit to a child

18.-(1) A court may issue a care order or an interim care order on an application by a social welfare officer for the benefit of a child.

(2) The care order or an interim care order shall remove the

Law of the Child

child from any situation where he is suffering or likely to suffer significant harm and transfer the parental rights to the social welfare officer.

(3) The social welfare officer shall take custody of the child and determine the most suitable place for the child which may be -

- (1) an approved residential home;
- (b) a fit person;
- (c) an approved foster parent in accordance with the foster care placements Rules made under this Act; or
- (d) at the home of a parent guardian or relative.

(4) The maximum duration of a care order shall be three years or until such time when the child attains the age of eighteen, whichever period is earlier.

(5) The court may make a further order that the parent guardian or other person responsible for the child shall pay for the cost of maintaining the child.

(6) A court shall not designate a manager or patron of an institution or an approved residential home, as an approved fit person to whom the care of a child can be entrusted, unless the institution or approved residential home is the one which the Commissioner has, by notice published in the *Gazette*, approved.

(7) An interim care order may not be made unless a child is suffering or is likely to suffer significant harm as provided for under section 16 of this Act.

Supervision
order OC comm

19.-(1) A court may, on application by a social welfare officer, issue a supervision or interim supervision order.

(2) The supervision or interim supervision order shall be aimed at placing or preventing any significant harm being caused to a child whilst he remains at his family home in the custody of his parent, guardian or relative.

(3) The supervision or interim supervision order shall place a child under the supervision of the social welfare officer or any fit person in the local community while the child remains in the custody of his parent, guardian or relative.

(4) The maximum duration for a supervision order shall be one year or until the child attains the age of eighteen or, upon approval by the social welfare officer where there is application

Law of the Child

by the social welfare officer to that effect.

(5) An extension of a supervision order shall require a written report by the social welfare officer.

(6) A supervision order shall require the person with whom the child lives to -

(a) inform the supervisor of any change of his address; and

(b) allow the supervisor to visit the child at his home.

(7) An application for the order for reception of a child in approved residential home or institution, shall contain the information relating to -

(a) the name, age and address of the child;

(b) gender of the child;

(c) names of the parent, if known;

(d) nationality;

(e) location and place of birth, if known;

(f) tribe; and

(g) birth religion.

(8) An application made under this section shall consider

(a) best interest of the child;

(b) social welfare investigative report; and

(c) alternative family.

Duties of
Social welfare
officer

20. The duties of a social welfare officer with respect to a care or supervision order are to -

(a) advise and counsel the child and his family;

(b) hold regular reviews to plan for the future of the child in consultation with the child and his parents or guardian;

(c) apply to the court to discharge or vary the order if necessary; and.

(d) take necessary steps to ensure that the child is not subjected to harm.

Home visits

21. A social welfare officer shall be permitted by a parent, guardian or relative of the child to visit the child at his family home or, at an approved residential home or institution, as the case may be.

Law of the Child

- General provisions on orders
- 22.-(1) A child who infringes an order of the court and runs away may be apprehended without warrant by a police officer, village executive officer, ward executive officer or social welfare officer and returned to the place of the care.
- (2) Where the child has run away and a fit person is not willing to take care of the child, the court may make another order placing that child in an approved school.
- Discharge of orders
23. A care or supervision order may be discharged in the best interest of the child by the court on the application of -
- (a) the child, through a next friend;
 - (b) a social welfare officer;
 - (c) a police officer;
 - (d) a parent, guardian or relative of the child; or
 - (e) any person with parental responsibility.
- Care order and adoption
- 24.-(1) A child under a care order or supervision order whose parent, guardian or relative does not show an interest in the welfare of the child within a period stipulated by the court, may be put up for adoption, with foster parents or place the child in a care of the patron of an approved residential home.
- (2) An application for a care order or supervision order may only be made -
- (a) after all possible alternative methods of assisting the child have been tried without success;
 - (b) the significant harm from which the child is suffering or is likely to suffer requires his removal from where he is living; or
 - (c) the danger to which the child is exposed to is so severe as to require his immediate removal from where he is living.
- Objective of a care order
- 25.-(1) The purpose of a care order or supervision order is to
- (a) remove a child from a situation where he is suffering or likely to suffer significant harm;
 - (b) assist the child and those with whom he was living or wishes to live; and
 - (c) examine the circumstances that led to the making of the order and to take steps to solve or

Law of the Child

ameliorate the problem so as to ensure the child's return to the community,

(2) A care order or supervision order shall, by an application of the social welfare officer, be reviewed at least once in each year.

Child rights
where parents
separate
Cap 29

26.-(1), Subject to the provisions of the Law of Marriage Act, where parents of a child are separated or divorced, a child shall have a right to-

- (a) maintenance and education of the quality he enjoyed immediately before his parents were separated or divorced;
- (b) live with a parent who, in the opinion of the court, is capable of raising and maintaining the child in the best interest of the child; and
- (c) visit and stay with the other parent whenever he desires, unless such arrangement interferes with his school or training programme,

(2) There shall be a rebuttable presumption that it is in the best interest of a child below the age of seven years to be with his mother but in deciding whether that presumption applies to the facts of any particular case, the court shall have regard to the undesirability of disturbing the life of the child by changes of custody,

PARTII

FOSTER CARE PLACEMENT

Parental
responsibility
of patron,
manager or
foster parent

27.-(1) The patron of the approved residential home or manager of an institution or the foster parents with whom the child is placed shall have parental responsibility for the child while the child is with him or with the institution,

(2) The child's contact with parents, relatives and friends while he is in the approved residential home, institution or with foster parent shall be encouraged unless it is not in the best interests of the child,

(3) The patron or manager of the approved residential home or institution or the foster parents with whom the child is placed, shall ensure that the child's development while in the approved

Law of the Child

residential home or institution or with a foster family particularly his health and education is attended to.

(4) The patron or manager of the approved residential home or institution shall have the responsibility of communicating with the parents or guardians of the child to inform them about the child's progress and to arrange, through the social welfare officer, for a trial return home by the child as soon as it is appropriate.

(5) The social welfare officer shall be required to visit the child during the trial period at home and make plans for the future of the child in consultation with the manager, patron or the foster parents.

Exclusion order

28.-(1) Juvenile Court may, or in proceedings for a supervision order, care order, interim supervision order or interim care order, make an exclusion order prohibiting a named person from having contact with the child and persons looking after the child.

(2) Before making an exclusion order, the court shall be satisfied that the order is necessary for the protection of the child and to safeguard the child's best interests.

(3) The court may specify the duration of the exclusion order.

Enforcement of exclusion order

29.-(1) A Children and Juvenile Court may vary or discharge an exclusion order on the application of the person named in the order or of the child concerned.

(2) A court may, in proceedings for an application for a care order or supervision order, make a search and production order authorizing the social welfare officer, with or without a police officer, to enter any premises specified in the order to search for and remove to a place of safety, any child whom the social welfare officer believes or suspects is suffering or is likely to suffer significant harm.

(3) A child removed on a search and production order shall be produced in court within seven days after his removal.

(4) As soon as possible and in any case within the period referred to in subsection (3), the social welfare officer or a police officer shall take the child to the court and shall make a report, taking into account the wishes of the child.

(5) Where a child is placed under protection, his parents,

Law of the Child

guardian or the persons with whom the child is living shall be informed as soon as practicable and shall be allowed to have contact with the child unless it is not in the best interests of the child.

(6) Any person who contravenes an exclusion order commits an offence and upon conviction shall be liable to a fine not exceeding five hundred thousand shillings or for a term of three months or to both.

Offence to
remove a child
without
authority

30. Any person who, without reasonable cause removes a child placed under protection from a place of safety without the authority or permission of the person under whose custody the child is placed, commits an offence and upon conviction shall be liable to a fine of not less than fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.

Social
investigation
report

31.-(1) The court shall require a written social investigation report in respect of a child before making a care order or supervision order.

(2) A social welfare officer shall have the duty to prepare a social investigation report, and to comply with an order of the court whenever required to provide such a report.

(3) The social welfare officer shall make home visit and interview the parents, guardians or relatives of the child concerned before preparing a social investigation report.

(4) Where the child in respect of whom the social investigation report is made is of sufficient age and understanding that child shall be interviewed by the social welfare officer.

(5) A social investigation report shall contain matters relating to the best interests of the child and recommendations as to any action to be taken by the court.

(6) The court shall take into account the information contained in the social investigation report if it is relevant to the order being made.

(7) Where an order of the court is not produced within fourteen days, the child may be admitted in the approved residential home or institution pending a court order which shall in any case, be procured within thirty days.

(8) Where the court is not satisfied with any recommendation made by the social welfare officer in the report

Law a/the Child

it shall record the reasons for not complying with the recommendation.

Conditions for foster care

32.-(1) Where a child has been committed to an approved residential home or institution under a care order or supervision order, the social welfare officer, in conjunction with the patron or manager of the approved residential home or institution may make recommendation to the Commissioner to place the child with a person who is willing to be a foster parent.

(2) A person who intends to foster the child shall make an application to the Commissioner for Social Welfare.

(3) The Commissioner shall, upon receipt of the application consider the application in the light with the recommendations made by the social welfare, officer, patron or manager.

(4) Where the Commissioner is satisfied that an applicant for foster parent is a person who can take care and maintain the child and is otherwise satisfied that the best interest of the child will be taken care, the Commissioner shall grant the permission for the child to be in the foster care of the applicant.

(5) A foster parent under whose care a child is committed shall, while the child remains in his care, have the same responsibilities in respect of the child's maintenance as if he were the parent of the child.

(6) The Minister shall, in consultation with the Minister responsible for social welfare, make rules regarding the foster care placements of the child.

No publication of information or photograph of a child

33.-(1) A person shall not publish any information or a photograph that may lead to the identification of a child in any matter before the court except with the permission of the court.

(2) Any person who publishes any information or photograph contrary to this section commits an offence and upon conviction shall be liable to a fine of not less than two million shillings and not more than fifteen million shillings or to imprisonment for a term not exceeding three years or to both.

PART V

PARENTAGE, CUSTODY, ACCESS AND MAINTENANCE

Application for parentage

34.-(1) The following persons may apply to a court for an

Law of the Child

order to confirm the parentage of a child -

- (a) the child;
- (b) the parent of a child;
- (c) the guardian of a child;
- (d) a social welfare officer; or
- (e) any other interested person.

(2) The application to the court may be made -

- (a) before the child is born;
- (b) within three years after the death of the father or mother of a child;
- (c) before a child is eighteen years of age or with special leave of the court, after the child has attained eighteen years.

Evidence of parentage

35. The following shall be considered by a court as evidence of parentage -

Cap.29

- (a) any marriage performed in accordance with the Law of Marriage Act;
- (b) the name of the parent entered in the Register of Births kept by the Registrar-General;
- (c) performance of customary ceremony by the father of the child;
- (d) public acknowledgment of parentage; and
- (e) DNA results.

Cap. 108

Medical test

36.-(1) The court may order the alleged parent to submit to a medical test and shall, on the basis of the evidence before it, make such order as it considers appropriate.

(2) Without prejudice to subsections (1), where the evidence of a mother or independent evidence cannot be corroborated by other evidence available to the satisfaction of the court, the court may, upon request or *suo moto*, order DNA test to be conducted for the purpose of proving the biological father of the child.

(3) The court shall determine and make an order as to the party who shall bear the costs associated with the DNA test.

(4) Where the court has made an order on a biological father, such biological father shall assume the responsibility to

Law of the Child

the child in the same manner as may be in respect of a child born in wedlock and the child shall, subject to religious belief of the biological father, have such other rights devolving from the parent including a right to be an heir.

Custody

37.-(1) A parent, guardian or a relative who is caring for a child may apply to a court for custody of the child.

(2) The court may, in the same proceedings for the declaration of parentage, grant custody of the child to an applicant on such conditions as it may deem fit.

(3) The court may, at any time, revoke the grant of custody to one person and grant the custody to another, approved residential home or an institution, as it may deem necessary.

(4) In reaching its decision under subsection (2) or (3), the court shall primarily consider the best interest of the child.

Access

38. A parent, guardian or a relative who has been caring for a child prior to the court order placing the custody of that child to another person may apply to a court for periodic access to the child.

Considerations
for custody or
access

39 .-(1) The court shall consider the best interest of the child and the importance of a child being with his mother when making an order for custody or access.

(2) Subject to subsection (1), the court shall also consider -

(a) the age and sex of the child;

(b) that it is preferable for a child to be with his parents except if his right are persistently being abused by his parents;

(c) the views of the child, if the views have been independently given;

(d) that it is desirable to keep siblings together;

(e) the need for continuity in the care and control of the child; and

(f) any other matter that the court may consider relevant.

Unlawfulchild
removal

40. Any person who unlawfully removes a child from the lawful custody of another person, an approved residential home or institution, commits an offence.

Law of the Child

Duty to maintain a child

41. A parent in respect of whom an order of parentage has been made, shall have a duty to contribute towards the welfare and maintenance of the child to supply the necessities for survival and development of the child.

Application of this section

42.-(1) The following persons may apply to the court for a maintenance order for the child -

- (a) a parent of the child;
- (b) the guardian of the child;
- (c) the child, by his next friend;
- (d) a social welfare officer; or
- (e) a relative of the child.

(2) The application for maintenance may be made against any person who is eligible to maintain the child or contribute towards the welfare and maintenance of the child.

Maintenance order against alleged biological father

43.-(1) An application for maintenance order may be made against the alleged biological father to the court in respect of the child-

- (a) by the expectant mother, at any time before the birth of the child;
- (b) at any time within twenty four months from the birth of the child,
- (c) at any time after the birth of the child upon proof that the man alleged to be the biological father of the child has within twenty four months after the birth of the child paid money for its maintenance;
- (d) at any time within the twenty four months after the return to Mainland Tanzania of the man alleged to be a biological father of the child, upon proof that he ceased to reside in Tanzania before or after the birth of the child; or
- (e) by the person against whom the order of parentage has been issued by the court in accordance with the provisions of Section 34 of this Act.

(2) The court shall refuse to grant a maintenance order under subsection (1) unless it is satisfied that -
(a) there is a reasonable cause to believe that the man alleged to be the father of the child is in truth and in

Luwojilhe Child

fact the father of that child and that the application for a maintenance order is made in good faith and not for any purpose of intimidation and extortion: and

- (b) the man alleged to be the father of the child has been requested by or on behalf of the applicant, to make provisions for maintenance of the child and has refused or neglected to provide maintenance, or has made inadequate provisions; and

Considerations
It's
maintenance
0 n.k rs

- 44. The court shall consider the following matters when making a maintenance order:
 - (a) the income and wealth of both parents of the child or of the person legally liable to maintain the child;
 - (b) any impairment of the earning capacity of the person with a duty to maintain the child;
 - (c) the financial responsibility of the person with respect to the maintenance of other children;
 - (d) the cost of living in the area where the child is resident; and
 - (e) the rights of the child under this Act.

Request It's
social welfare
report

45.-(1) The court may request a social welfare officer to prepare a social investigation report on the issue of maintenance before the consideration.

- (2) The court shall, in making such order, consider the social investigation report prepared by the social welfare officer.

Persons entitled
to administer
maintenance
order

46.-(1) Any person who has custody of a child who is the subject of maintenance order is entitled to receive and administer the maintenance order of the court.

- (2) Where the parent, guardian or any other person with custody of the child ceases to be a fit person, the court of the area where the child is resident may appoint another person to have custody of the child and administer the maintenance order and that person shall act as if he was originally appointed by the Court.

Law of the Child

47. A maintenance order issued by the court shall expire when the child attains the age of eighteen, is gainfully employed or dies before attaining the age of eighteen.

47. A maintenance order issued by the court shall expire when the child attains the age of eighteen, is gainfully employed or dies before attaining the age of eighteen.

48.-(I) Notwithstanding the provisions of section 47, the court may continue to enforce a maintenance order after a child has attained eighteen years if the child is engaged in a course of continuing education or training.

48.-(I) Notwithstanding the provisions of section 47, the court may continue to enforce a maintenance order after a child has attained eighteen years if the child is engaged in a course of continuing education or training.

(2) An application under this section may be brought by a parent of the child, any person who has the custody of the child or the child himself.

(3) Notwithstanding the provisions of subsection (2), an action may be brought to the court by any person to enforce a maintenance order within forty five days after the order is made or is due.

49. The court may, if satisfied, vary or discharge a maintenance order on application by a parent, a person who has custody of the child or an other person legally liable and appointed to maintain the child.

49. The court may, if satisfied, vary or discharge a maintenance order on application by a parent, a person who has custody of the child or an other person legally liable and appointed to maintain the child.

50. A parent who has no custody of a child and against whom an application is made to a court for an order of parentage, custody, access or maintenance shall have access to the child who is the subject of the order.

50. A parent who has no custody of a child and against whom an application is made to a court for an order of parentage, custody, access or maintenance shall have access to the child who is the subject of the order.

51. Any person who-

(a) unlawfully removes a child from another person who has lawful custody of the child contrary to section 37; or

(b) fails to supply the necessities for survival and development for a child when legally liable to do so under sections 41 and 46;

commits an offence and is liable on conviction to a fine of not less than live hundred thousand and not more than five million shillings or to imprisonment for a term of not less than six months and not more than three years or to both.

Lu'U' o/the Child

PART VI

FOSTERAGE AND ADOPTION

Person who can foster 52.-(1) Any person above the age of twenty-one of high moral character and proved integrity may be a foster-parent to a child.

(2) "A foster-parent" as used in this Part means a person who is not the parent of a child but is willing to undertake the care, welfare and maintenance of the child.

Conditions for foster-care placement 53.-(1) Where -
(a) a child has been committed to an approved residential home or an institution under a supervision order;
(b) a recommendation has been made by a social welfare officer that an approved residential home or an institution is the most suitable place for child; or
(c) a child has been placed in an approved residential home or an institution by any person.

the Commissioner may place that child with a foster parent.

(2) An application to foster a child shall otherwise be made to the Commissioner shall be forwarded to a social welfare officer, patron or to the person in charge of the approved residential home.

(3) Any foster-parent in whose care a child is placed, or committed, shall have the same responsibilities in respect of the child's maintenance as the parent of the child.

(4) Any foster-parent who contravenes the provisions of this Part is guilty of an offence under this Act.

(5) The Minister responsible for social welfare, upon consultation with the Minister responsible for children affairs may, make regulations on fosterage or foster-care placement.

(6) Notwithstanding any provisions of this section, the Commissioner may, by deed, place any child under foster care for temporary custody.

Provision for adoption 54.-(1) Subject to the provisions of this Act, an application for an adoption order shall be made to the High Court.

(2) Upon receipt of the application, the court may grant an adoption order in accordance with this Act.

Law of the Child

Application of
adoption

55. An application for an adoption order may be made jointly by _

- (a) a husband and his wife; or
- (b) mother or father of the child alone or jointly with his spouse.

Application of
guardians

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

- (a) is of or above twenty-five years of age and at least twenty-one years older than the child;
- (b) is a relative of the child and is above the age of twenty-five;
- (c) in case of an application by one of the spouses, the other party has consented to the adoption; or
- (d) in case of an application by one of the spouses, the other party has consented to the adoption; or
- (e) a single woman where the applicant is a citizen of Tanzania,

and with due regard to the best interest of the child.

(2) A male applicant shall be granted an adoption order if the application is made in respect of his soil or the court is satisfied that special circumstances warrant the order.

- (3) An adoption order shall not be made for a child unless _
- (a) the applicant and the child reside in Tanzania but this shall not apply if the applicant is a citizen of Tanzania resident abroad;
 - (b) the child has been continuously in the care of the applicant for at least six consecutive months immediately preceding the date of the order; and
 - (c) the applicant has notified the Commissioner for Social Welfare of his intention to apply for an adoption order for the child at least three months before the date of the order.

(4) Unless the applicants are husband and wife or father and mother, as the case may be, an adoption order shall not be made to authorize more than one person to adopt a child.

Consent of
parents and
guardians

57.-(1) An adoption order shall only be made with the consent of the parents or guardian of the child.

Law of the Child

(2) Notwithstanding the provisions of subsection (1), the court may dispense with consent of any parent, guardian or relative of the child, if it is satisfied that -

- (a) the parent, guardian or relative has neglected or persistently ill treated the child; or
- (b) the person cannot be found or is incapable of giving consent or that the consent is unreasonably withheld.

(3) Any parent, guardian or relative of a child who is the subject of an application for adoption or has given consent for the adoption order shall not be entitled to remove the child from the care and possession of the applicant except with the permission of the court and in the best interest of the child.

Other consent

58c(1) The court may require the consent of any person for an adoption order if it considers that the person has any rights or obligations in respect of the child under an agreement or court order.

(2) Subject to sub-section (2) of section 56, where a married person is the sole applicant, the court may require the consent of the spouse of that person before the adoption order is made.

Additional for adoption order

59-(1) The court shall make an adoption order if it is satisfied that-

- (a) the consent required for the adoption order has been obtained and that the parent or guardian of the child understands that the effect of the adoption order shall mean permanent deprivation of parental rights;
- (b) it is in the best interest of the child and that the wishes of the child have been considered if the child is capable of forming an opinion;
- (c) if the child is at least fourteen years of age, his consent to the adoption has been obtained, unless it is impossible for the child to express an opinion; and the applicant has not received or agreed to receive any payment and that no person has made or agreed to make any payment or given or agreed to give any reward to the applicant for the adoption except as the court may order.

(2) Notwithstanding subsection (1), the court shall not make an adoption order unless there is a social investigation

Law of the Child

report prepared by the social welfare officer supporting the application for adoption and the court may, require some other persons or a local government authority to make a report in respect of the application.

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

(4) The adoption order shall include the following particulars the -

- (a) date and place of birth of the child;
- (b) name, gender and surname of the child before and after adoption;
- (c) name, surname, address, place of birth, original residence, citizenship and occupation of the adoptive parent; and
- (d) date of the adoption order.

(5) An adoption order shall not be made in respect of any child unless the child has been continuously in the care and custody of the applicant for at least three continuous months immediately preceding the date of the order.

Inkrim order

60.-(1) Subject to the provisions of this section, the court may postpone the determination of the application and make an interim order giving the custody of the child to the applicant for a period not exceeding two years by way of probation and may attach such terms including provision for the maintenance, education and supervision of the child as it thinks fit.

(2) When making an interim order the court shall impose conditions that the child shall-

- (a) be under the supervision of a social welfare officer; and
- (b) not be taken out of Tanzania without the permission of the court.

(3) The consent and the powers 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 under this Part.

Law of the Child

Knowledge of
adoption by
child

61.-(1) An adoptive parent shall inform the adopted child of the fact that the child is adopted and his parentage, but, this disclosure shall be made if

- (a) it is in the best interest of the child: and
- (b) the child is at least fourteen years of age.

(2) No person other than the adoptive parent shall disclose adoption to the adopted child.

(3) Any person who contravenes this provision commits an offence and upon conviction shall be liable to a fine of not less than one hundred thousand shillings but not more than two million shillings or to imprisonment for a term not exceeding twelve months or to both.

Application by
non-resident

62.-(1) In an application for adoption by an applicant who is a citizen of Tanzania but does not reside within the United Republic or where there is a joint application and one applicant is not a resident of Tanzania, the court shall satisfy itself that there is enough information warranting determination of application and thereafter make an interim order.

(2) The court shall, before granting an interim or adoption order, satisfy itself that there is enough information warranting the determination of the application from a recognised authority where the applicants presently reside and his country of origin.

Children
previously
adopted

63. An adoption order or an interim order may be made for a child who has already been adopted and the adoptive parent under the previous adoption shall, if alive, be considered as the parent or guardian of the child for the purpose of the subsequent adoption.

Effect of
adoption on
parental rights

64.-(1) When an adoption order is made-

- (a) the rights, duties, obligations and liabilities including those under customary law of the parents of the child or of any other person connected with the child of any nature whatsoever shall cease; and
- (b) the adoptive parent of the child shall assume the parental rights, duties, obligations and liabilities of the child with respect of custody, maintenance and

education as if the child was born to the adoptive parent in a lawful wedlock and was not the child of any other person.

(2) Where an adoption order is made jointly to a husband and wife, they 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.

Devolution
properly on
intestate

65.-(1) Where an adoptive parent dies intestate, his property shall devolve in all respects as if the adopted child is the natural child of the adoptive parent.

(2) For avoidance of doubt, an adopted child shall be not entitled to inherit from his biological parents on intestacy.

LL'stHInentur)
di:-:111)stiiIH

66.-(1) In a testamentary disposition of real or personal property, whether or not in writing made after the date of an adoption order -

- (a) any reference whether express or implied to the child of the adoptive parent shall, unless the contrary intention appears, be construed as, or including, a reference to the adopted child;
- (b) where a disposition made by the adoptive parent prior to the adoption order made no provision for the adopted child, the adopted child may apply to the court to vary the disposition to provide for the adopted child from the estate of the adoptive parent;
- (c) any reference to a child of the adopted child's biological parents in a will shall not be construed as including a reference to the adopted child unless the contrary intention appears; and
- (d) any reference to a person related to the adoptive parent shall, unless the contrary intention appears, be construed as a reference to the person as if he were the relative of the child who is adopted.

(2) A disposition by will executed before the date of the adoption order shall not be treated, for the purpose of this section, as if it were made after the date on which the adoption order was made by a codicil giving retrospective effect to the will.

(3) For the purposes of this section the expression "disposition" means a disposition of any interest in property by any instrument whether *inter vivos* or by will, including codicil.

LIII' of/he Child

Slppk11-ltar)
provisiolls Oil
intestacy and
I-Slal11-lltar)
disposition

67.-(I) The administrators or executors of an estate may distribute the estate of a deceased person to persons entitled under the estate without incurring any liability.

(2) Where at the time of the distribution the administrator or executors had not received a notice of an adoption order by virtue of which the adopted child is entitled to benefit under the estate, the entitled adopted child shall have a right to trace the property except against a purchaser in good faith:

Provided that the property shall not be disposed of or transferred to any other person until the matter is resolved.

(3) The previous adoption order of a child that has been adopted for a second time shall be disregarded for the purpose of devolution of property on the death of the previous adoptive parent.

Idl)ption order
and distollmf)
law

68.-(I) An adopted child shall be subject to customary law as if he were the natural child of the adoptive parent only if the adoptive parent is the subject of customary law.

(2) Where there is a joint adoption by husband and wife, references to the adoptive parent in this section shall be taken as a reference to the husband and wife.

:\dopl-d
Childr- 11
Register

69.-(I) The Registrar-General shall keep and maintain at his office a Register of Adopted Children in which shall be recorded particulars of the adoption order or interim order issued by the court.

(2) Every adoption order or interim order issued by a court shall be served on the Registrar-General by the registrar of the High Court within thirty days of the making of the order.

(3) The Registrar-General shall keep other records that are related to entries in the Register of Births on adoption together with entries in the Register of Adopted Children but these records shall not be available to the public or any person except under a court order.

Registration or
adoptions

70.-(1) An adoption order made by the court shall contain a direction to the Registrar-General to make an entry in the Adopted Child Register in the form set out in the Schedule to this Act.

Law of/he Child

(2) Subject to the provisions of subsection (3), shall specify the particulars to be entered under the headings in columns 2 to 6 of the Schedule to this Act.

(3) For the purpose of compliance with the requirements of subsection (1) where-

- (a) the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined shall be specified in the order.;
- (b) the name or surname which the child is to bear after the adoption differs from his original name or surname, the new name or surname shall be specified in the order instead of the original; and
- (c) the country of birth of the child is not proved to the satisfaction of the court, the particulars of that country may, notwithstanding anything in that subsection, be omitted from the order and from the entry in the Register of Adopted Children.

(4) Where upon any application to the court for an adoption order in respect of a child, not being a child who has previously been the subject of an adoption order made by the court under this Act there is proved to the satisfaction of the court the identity of the child, with a child to whom an entry in the Register of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar-General to cause the entry in the Register of Births to be marked with the words "Adopted".

(5) Where an adoption order is made by the court under this Act. the order shall contain a direction to the Registrar-General to cause the previous entry in the Register of Adopted Children to be marked with the word "Re-adopted".

(6) Where an adoption order is made by the court under this Act, the court shall cause the order to be communicated in a prescribed manner to the Registrar-General. and upon receipt of such communications the Registrar-General shall cause compliance to be made with the directions contained in the order both in regard to marking any entry in the Registers of Births with the word "Adopted" and in regard to making the appropriate entry in the Register of Adopted Children.

Lu1' of/he Child

**Amendment of
orders and
n:cllkution nr
RC!!lstcrs**

71.-(1) The couli by which an adoption order has been made under this Act may, on the application of the adoptive parent or adopted child, amend the order by the correction of any error in the particulars; and where an adoption order is so amended, the Court shall cause the amendment to be communicated in the prescribed manner to the Registrar-General.

(2) The power of the Court under sub-section (1) shall include power to amend the order-

(a) by the insertion of the country of the adopted child's birth; or

(b) where it does not specify a precise date as the date of the adopted child's birth, by the insertion of the date which appears to the Court to be the date or probable date of his birth.

and the provisions of subsection (1) shall have effect accordingly.

(3) Where an appeal against an adoption order is allowed, the Court which made the order shall give directions to the Registrar-General to cancel any marking of any entry in the Register of Births and any entry in the Register of Adopted Children which was effected in pursuance of the order.

**Prohibition or
payment and
reward 011
at!opli011**

72.-(1) A person shall not give any payment or reward in respect of an adoption order except with the approval of the court.

(2) A person shall not receive any payment or reward in respect of any arrangement that may or may not lead to an adoption order.

(3) Any person who contravenes this section commits an offence and shall, be liable on conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding two years or to both.

**Notice h, be
given to send a
eh ill! abroad**

73.-(1) The adoptive parent shall notify in writing the Commissioner when the adopted child is sent out of the country permanently after an adoption order has been made by the court.

(2) Subject to the prevision of sub-section (1), the notice shall be communicated to the Commissioner within thirty days before the departure of the adoptive parent and adopted child from the country.

Law of the Child

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of not less than ten million shillings and not more than fifty million shillings or to imprisonment for a term of not less than six months and not more than two years or to both.

Adoption h)

10) 1981/11/11

74.-(1) A person who is not a citizen of Tanzania may adopt a Tanzanian child, if he

- (a) has stayed in Tanzania for at least three consecutive years;
- (b) has fostered the child for at least three months under the supervision of a social welfare officer;
- (c) does not have any criminal record in his country of origin or any other country;
- (d) has a recommendation concerning his suitability to adopt a child from his country's social welfare officer and other competent authority of his permanent country of residence; and
- (e) has satisfied the court that his country of origin respects and recognizes the adoption order.

(2) Subject to subsection (1), the court may grant an adoption order if it is in the best interest of the child,

(3) For an application for adoption by a foreigner, the social welfare officer shall be required to undertake background investigation and submit a social investigation report to assist the court in considering the application.

(4) The court may, in respect of the application for adoption by a foreigner, make an additional order-

- (a) requiring a social welfare officer to represent the best interest of the child;
- (b) requiring a social welfare officer to prepare a social investigation report to assist the court to determine whether the adoption order is in the best interest of the child or not; or
- (c) any other matter as the court may determine.

Rules It)r

11) 1981/11/11

75.-(1) The Minister for social welfare may, in consultation with the Minister responsible for children's affairs, make rules prescribing procedures for adoption proceedings.

Law ~r(the Child

(2) For the purposes of subsection (1) the rules shall prescribe-

- (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) requirement of social welfare officer to represent the interests of the child;
- (d) requirement for a social welfare officer to prepare a social investigation report to assist the court to determine whether the adoption order is in the best interest of the child or not; and
- (e) any other matter as the Minister for social welfare may determine.

Restriction or
publication
advertisement

76.-(1) It shall be unlawful to publish any advertisement which contains information indicating that-

- (a) the parent or guardian of a child desires to cause the child to be adopted;
- (b) a person desires to adopt a child; or
- (c) a person is willing to make arrangements for the adoption of a child.

(2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section commits an offence under this Act and shall be liable upon conviction to a fine of not less than one million shillings and not more than ten million shillings or to imprisonment for a term of not less than six months and not more than two years or to both.

PART VII

EMPLOYMENT OF A CHILD

(a) *Employment of the child*

Child's right to
work

77.-(1) A child shall have a right to work.

(2) For the purposes of subsection (1), the minimum age for employment or engagement of a child shall be fourteen years.

(3) Subject to subsection (1), "light work" shall constitute work which is not likely to be harmful to the health or

Law of the Child

development of the child and does not prevent or affect the child's attendance at school, participation in vocational orientation or training programmes or the capacity of the child to benefit from school work.

Prohibition of
child labour

78.- (1) A person shall not employ or engage a child in any kind of exploitative labour.

(2) Without prejudice to the provisions of this section, every employer shall ensure that every child lawfully employed or engaged in accordance with the provisions of this Act is protected against any discrimination or acts which may have negative effect on him taking into consideration his age and evolving capacities.

(3) Labour shall be construed as exploitative if-

- (a) it deprives the child of his health or development;
- (b) it exceeds six hours a day;
- (c) it is inappropriate to his age; or
- (d) the child receives inadequate remuneration.

Prohibition of
child labour at
night

79.- (1) Without prejudice to the provisions of section 78, the child shall not be employed or engaged in a contract of the service performance which shall require a child to work at night.

(2) "Night work" shall be construed to constitute work performance of which requires the child to be at work between the hours of twenty hours in the evening and six o'clock in the morning.

Prohibition of
forced labour

80.- (1) Any person who procures, demands or imposes forced labour to a child, commits an offence.

(2) For the purposes of this section, "forced labour" includes bonded labour or any other work exacted from a person under the threat of a penalty but shall not include work that forms part of the normal civic obligations, minor communal services performed by the members of a community in the direct interest of that community.

Right in
remuneration

81.- (1) A child has a right to be paid remuneration equal to the value of the work done.

(2) Notwithstanding the provisions of the Employment and Labour Relations Act, any employer who contravenes the

Cap. 160

Law a/the Child

provisions of this section commits an offence.

Minimum age
rur hazardous
-ll1ploYll1cnt

82.-(1) It shall be unlawful to employ or engage a child in any hazardous work.

(2) Work shall be construed as or considered to be hazardous if it poses a danger to the health, safety or morals of a person.

(3) Without prejudice to subsection (3), hazardous work shall include-

- (a) going to sea;
- (b) mining and quarrying;
- (c) portering of heavy loads;
- (d) manufacturing industries where chemicals are produced or used;
- (e) work in places where machines are used; and
- (f) work in places such as bars, hotels and places of entertainment.

(4) Notwithstanding the provisions of subsection (3), any written law regulating the provisions of training may permit a child -

- (a) on board a training ship as part of the child's training;
- (b) in a factory or a mine, if that work is part of the child's training;
- (c) in any other worksites on condition that the health, safety and morals of the child are fully protected and that the child has received or is receiving adequate specific instruction or training in the relevant work or activity.

Prohibition
scxll-1
exploit(-lioll)

83.-(1) A child shall not be engaged in any work or trade that exposes the child to activities of sexual nature, whether paid for or not.

(2) For avoidance of doubt, it shall be unlawful for any person to use -

- (a) inducement or coercion in the encouragement of a child to engage in any sexual activity;
- (b) children in prostitution or other unlawful sexual practices; and
- (c) children in pornographic performances or materials.

(3) Any person who contravenes the provisions of this

Lml' o/the Child

section commits an offence and shall on conviction be liable to a fine of not less than one million shillings and not more than five hundred million shilling or to imprisonment for a term of not less than one year and more than twenty years or to both.

Application

84.-(1) For the avoidance of doubt, this Part shall apply to employment in the formal and informal sector.

(2) Subject to subsection (1), a labour officer shall, at any reasonable time, enter into any premises and carry out inspection which he may consider necessary in order to satisfy himself that the provisions of this Part are complied with.

(3) For purposes of this section, the term "premises" means a building, establishment, office, grounds, estate, site and shall include vessel, vehicle, and aircraft.

Registration of a child in industrial undertakings

85.-(1) An employer in any industrial undertaking shall keep a register of children employed or engaged by him and of the dates of their births if known or their apparent ages if their dates of birth are not known.

(2) An industrial undertaking is an undertaking other than one in commerce or agriculture and includes -

- (a) mines, quarries and other works for extracting minerals from the earth;
- (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adopted for sale, broken up or demolished, or in which materials are transformed including undertakings engaged in ship building or in the generation, transformation or transmission of electricity or motive power of any kind; and
- (c) undertakings engaged in the transport of passengers or goods by road or rail including the handling of goods at docks, quays, wharves, warehouses and airports.

Enforcement

86.-(1) The Labour Officer shall carry out any enquiry he considers to be necessary in order to satisfy himself that the provisions of this Part with respect to labour by children are being strictly observed.

(2) For purposes of this section the Labour Officer may

LC/11b/the Child

interrogate any person as may be necessary.

(3) Where the Labour Officer is reasonably satisfied that the provisions of this Part are not being complied with, he shall serve a non-compliance order on the employment and report the matter to the Social Welfare Officer and the nearest police station and they shall investigate and take any appropriate steps to protect the child.

(b) Apprenticeship

87. A child shall have a right to acquire vocational skills and training in the form of apprenticeship.

88. The minimum age at which a child may commence an apprenticeship with a craftsman shall be fourteen years or after completion of primary school education.

89. The obligations of a craftsman towards an apprentice under his care shall be to-

- (a) train and instruct the apprentice in a trade to the best of his ability, skill and knowledge and to the best ability of the apprentice or cause the apprentice to be trained in a trade under his supervision;
- (b) be responsible for any harm caused to the apprentice in the course of his training;
- (c) provide a safe and healthy environment for the apprentice;
- (d) prepare morally an apprentice to lead his independent life; and
- (e) protect the best interest of the apprentice, generally.

90.-(1) The parent, guardian or relative of an apprentice shall enter into an apprenticeship agreement with the craftsman.

(2) The agreement shall be in accordance with the custom which pertains to the specific trade but shall not include the performance of any induction ceremony which may conflict with the rights of the child provided under this Act.

(3) The agreement shall contain matters agreed upon by the parties, and may include -

- (a) a provision that the parent, guardian, relative or

Law (~lthe Child

- craftsman shall bear the cost of protective clothing and the basic tools for the training of the apprentice:
- (b) a duty that the craftsman is to provide shelter for the apprentice: and
- (c) a provision that the craftsman is to give the apprentice an allowance of not less than half the sectoral minimum daily wage for his daily sustenance, if the apprentice generates income.

(4) The agreement shall be in writing and shall contain provisions in the best interest of the parties and the apprentice.

(5) Where a party to the agreement contravenes its terms, the agreement shall immediately lapse unless there is a contrary intention in the agreement.

Duties or apprentice

91. An apprentice shall diligently and faithfully obey and serve the craftsman and shall agree -

- (a) to regularly attend the apprenticeship:
- (b) to prevent any deliberate damage to the property of the craftsman: and
- (c) not to conceal any damage to the property of the craftsman.

Release OR apprentice

92.-(1) The conditions of the release of an apprentice shall, upon the completion of his training, not be exploitative and shall be in accordance with the best interest of the child.

(2) The craftsman shall, on completion of a period of apprenticeship, issue proof of release from the apprenticeship.

Displlt-s
N~s\|tltioll

93. Any disputes arising out of the apprenticeship agreement shall be referred to the Labour Officer of the district concerned by the parties to the apprenticeship agreement.

PART VIII

SUPPORT SERVICES FOR A CHILD BY LOCAL GOVERNMENT AUTHORITIES

Duty or Local Government Authorities (l) safe-guard children and promote reconciliation

94.-(1) A local government authority shall have a duty to safeguard and promote the welfare of the child within its area of jurisdiction.

(2) The social welfare officer in the local government authority shall, exercise his functions in relation to the welfare of children, and may be assisted by such officers of the local

Law of the Child

government authority as the authority may determine.
child

(3) A local government authority through a social welfare officer shall provide parental counseling to both parents, guardians, relatives and children for the purpose of promoting reconciliation between them.

(4) The local government authority shall have the duty to keep a register of most vulnerable children within its area of jurisdiction and give assistance to them whenever possible in order to enable those children grow up with dignity among other children and to develop their potential and self reliance.

(5) Each local government authority shall, within its area of jurisdiction, be required to provide assistance and accommodation for any child who appears to the authority to require such assistance as a result of having been lost or abandoned or is seeking refuge.

(6) Each local government authority shall, in collaboration with the police force, make every effort to trace the parents, guardians or relatives of any lost or abandoned child and, to return the child to the place where he ordinarily resides and, where the authority does not succeed, it shall refer the matter to the social welfare officer or to the community development officer.

(7) The social welfare officer and the police officer shall, within the area of a local government authority, investigate all cases of breach or violation of the rights of the child.

**Duty to report
infringement of
child's rights**

95.-(1) It shall be the duty of any member of the community who has evidence or information that a child's rights are being infringed or that a parent, a guardian or relative having custody of a child who is able to, but refuses or neglects to provide the child with food, shelter, right to play or leisure, clothing, medical care and education, to report the matter to the local government authority of the area.

(2) The social welfare officer may, upon receiving the report, summon the person against whom the report was made to discuss the matter; and the decision shall be made by that officer in the best interest of the child.

(3) Where the person against whom the report was made refuses to comply with the decision made under subsection (2), the social welfare officer shall refer the matter to the court which

shall hear and adjudicate the matter. and may in respect of such proceedings

- (a) give any relief or order prayed for as circumstances may require: and
- (b) in the case of a parent. in addition to the relief, Jr orders given. order the parent to execute a bond to exercise proper care and guardianship by signing and undertaking to provide the child with any or all of the requirements.

(4) Subject to the provisions of this Act, the primary court may be the court of first instance in matters under this Part and appeals from that court shall follow the normal procedures of appeals.

In litigation b) lpartIII-nl

96.-(I) Where the social welfare officer has reasonable grounds to suspect a child abuse or a need for care and protection of a child. he shall in the company of a police officer and may enter and search the premises where the child is kept in order to investigate.

(2) Where, after investigation it is determined that the child has been abused or is in need of immediate care and protection. the social welfare officer. accompanied by the police officer. shall remove the child to a place of safety for a period of not more than seven days.

(3) Where a child has been displaced or removed in accordance with subsection (2). the social welfare officer shall bring the child before the court within a fourteen days period for an order to be made.

(4) Until the court determines the matter. it may commit the child to an approved residential home or to the care of a social welfare officer or any fit person.

PART IX

A 0111.1)IN CONFLICT WITH LA>.

(1/ Juvenile Court

Establishment of the Juvenile Court

97.-(I) There shall be established a court to be known as the Juvenile Court, for purposes of hearing and detaining child malters relating to children.

Lall' o('fhe Child

(2) The Chief Justice may, by notice in the *(Ja::elle,* designate any premises used by a primary court to be a Juvenile Court.

(3) A Resident Magistrate shall be assigned to preside over the Juvenile Court.

**Jurisdiction of
Juvenile Court**

98.-(1) The Juvenile Court shall have power to hear and determine-

- (a) criminal charges against a child; and
- (b) applications relating to child care, maintenance and protection.

(2) The Juvenile Court shall also have jurisdiction and exercise powers conferred upon it by any other written law.

(3) The Juvenile Court shall, wherever possible, sit in a different building from the building ordinarily used for hearing cases by or against adults.

**Procedure in
Juvenile Court**

99.-(1) The procedure for conducting proceedings by the Juvenile Court in all matters shall be in accordance with rules made by the Chief Justice for that purpose, But shall, in any case, be subject to the following conditions -

- (a) the Juvenile Court sits as often as necessary;
- (b) proceedings shall be held in camera;
- (c) proceedings shall be informal as possible, and made by enquiry without exposing the child to adversarial procedures;
- (d) a social welfare officer shall be present;
- (e) a right of a parent, guardians or a next of kin shall be present,
- (f) the child shall have a right to next of kin and representation by an advocate;
- (g) the right to appeal shall be explained to the child; and
- (h) the child shall have a right to give an account and express an opinion.

(2) Apart from members and officers of the Juvenile Court, only the following persons may, at the discretion of the Court, attend any sitting of Juvenile Court-

- (a) parties to the case before court, their advocates, witnesses and other persons directly concerned or involved in the case: and

Law of the Child

JU\Lnk (purf
ma- dispnc Llf
aJlcilscS dlkr
mlf Ih)lllcik

103.-(1) The police officer shall not bring a child to the court unless investigation has been completed or the offence requires committal proceedings.

(2) Where a child is brought before the Juvenile Court for any offence other than homicide, the case shall be disposed by that court on that day.

Children rna- he
rLm,Ultkd ltl the
(.m: or U jii
!!L'rsnn \H"
HHSrUTH,11

104.-(1) Where a Juvenile Court remands a child or commits a child for trial before the High Court and the child is not released on bailor is not permitted to go at large, the Juvenile Court may, instead of committing the child to prison, order him to be handed over to the care of the Commissioner. That person or institution named in the order.

(2) The child shall remain in the custody of that person or institution during the period mentioned in the order or until he is finally dealt with according to law and shall be deemed to be in legal custody during that period.

Cl lun's dlt- l(Q
cplail L11,1fgC

105. A Juvenile Court shall on hearing a charge against a child explain to him in simple language the particulars of the alleged offence.

Accused to he
ashed tn sho\
L'USC

106. After explaining the particulars of the alleged offence the Juvenile Court shall ask the child to make a statement on whether he has a cause to show why he should not be convicted.

.,\cIIScdmily he
L'111\Tted nil
pic,! oJ' guilt)

107. Where the statement made by the child amounts to a plea of guilty the court may convict him,

Attendance,
appe,rance and
hearill- ill
iuvenile Cl111rl

108.-(1) Where the child does not admit the offence with which he is charged, or where the court does not accept the statement of the child as amounting to a plea of guilt to that charge, the court shall proceed to hear the evidence of the witnesses for the prosecution.

(2) In all proceedings against a child, where the parents, guardian, relatives or social welfare officer attend, anyone of them may, with the prior consent of the court, assist the accused

Law of the Child

child in the conduct of his case and, in particular, in the examination and cross-examination of witnesses.

Cross-examination or witness

109. At the close of the evidence of each witness the Juvenile Court shall put to the witnesses such questions as appears to be necessary or desirable, either for the purpose of establishing the truth or the facts alleged or to test the credibility of the witness.

Defence

110. Where after the prosecution witnesses have given evidence and the Juvenile Court is satisfied that the evidence before it established a prima facie case against the child the Juvenile Court shall hear the witnesses for the defence and any further statement which the child may wish to make in his defence.

Procedure upon conviction

111.-(1) Where the child admits the offence and the Juvenile Court accepts its plea or after hearing the witnesses the Juvenile Court is satisfied that the offence is proved, the Juvenile Court shall convict the child and then, except in cases where the circumstances are so trivial as not to justify such a procedure. obtain such information as to his character, antecedents, home life, occupation and health as may enable it to deal with the case in the best interests of the child, and may put to him any question arising out of that information.

(2) For the purpose of obtaining information or for special medical examination or observation. the Juvenile Court may remand the child or may release him on bail.

Attendance at court of parent of child charged with an offence

112. Where a child is charged with any offence. the Juvenile Court may in its discretion require the attendance of his parent, guardian, relative or a social welfare officer and may make such orders as are necessary for procuring the attendance.

Determination of age

113.-(1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child, the court shall make due inquiry as to the age of that person.

(2) The court shall take such evidence at the hearing of the case which may include medical evidence and, or DNA test as is

CHAPTER 10 of the Child

necessary to provide proof of birth, whether it is of a documentary nature or otherwise as it appears to the court to be worthy of belief.

(3) A certificate purporting to be signed by a medical practitioner registered or licensed under the provisions of the law governing medical practice in Tanzania as to the age of a child shall be sufficient evidence and shall be receivable by a court without proof of signature unless the court orders otherwise.

(4) An order or judgement of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court and the age found by the court to be the age of the person so brought before it shall, for the purposes of this section, be deemed to be the true age of that person.

(5) Medical evidence and or collection of blood for the purpose of DNA from the child shall be conducted in the presence of a social welfare officer or a community development officer.

114.-(1) Where it appears to the court that any person brought before it is of the age of or beyond eighteen years, that person shall, for the purposes of this section, be deemed not to be a child.

(1) Where it appears to the court that any person brought before it is of the age of or beyond eighteen years, that person shall, for the purposes of this section, be deemed not to be a child.

(2) Without prejudice to the preceding provisions of this section, where the court has failed to establish the correct age at the person brought before it, then the age stated by that person, parent, guardian, relative or social welfare officer shall be deemed to be the correct age of that person.

(b) A child as a witness

Child as a witness

115.-(1) Where in any case or matter a child called as a witness does not, in the opinion of the court (if the court understands the nature of an oath, the evidence given by the child shall be recorded in the proceedings. The child is presumed to possess sufficient intelligence to justify the reception of the laws of evidence and understands the duty of speaking the truth.

(2) Notwithstanding any rule of law or practice to the contrary, where evidence received by virtue of subsection (1) is given on behalf of the prosecution is not corroborated by any other material evidence in support of it implicating the accused the court may, after warning itself, act on that evidence to convict the accused if it is fully satisfied that the child is telling the truth.

(3) Notwithstanding the provisions of this section, where in any criminal proceedings involving sexual offence the only independent evidence is that of the child or victim of the sexual offence, the jury may, if satisfied, receive the evidence and may after assessing the credibility of the child or victim of sexual offence, on its own merits, notwithstanding that such evidence is not corroborated, proceed to convict for reasons to be recorded in the proceedings, if the court is satisfied that the child is telling nothing but the truth.

(4) For the purposes of this section and any other written laws, "sexual offence" means any sexual offence as created by the Penal Code,

Cap: 6

(c) Custodial Sentence

116.- (1) Where a child is convicted of an offence other than homicide, the Magistrate's Court may make an order discharging the offender conditionally on his entering into recognisance, with or without sureties, to be of good behaviour during such period not exceeding three years, as specified in the order but if a child has demonstrated good behaviour then that child shall be presumed to have served the sentence.

Probation orders

(2) A recognisance entered into under this section shall, if the court so orders, contain a condition that the child be under the supervision of parent, guardian, relative or social welfare as may be named in the order, and during the period specified in the order, if that person is willing to undertake the supervision, and such other conditions for supervising the supervision as may be specified in the order.

1/r

(3) The person named in the order may at any time be relieved of his duties and, in that case or in the case of the death of a person so named, another person may be substituted by the Juvenile Court before which the child is bound by his recognisance to appear for conviction or sentence.

Law of the Child

Provision
case or a child
tilling to
observc
conditionalIS or
release

117.-(1) Where a Juvenile Court, is satisfied by information on oath that the child has faUed to observe any of the conditions of his recognisance, it shall issue summons to the child or young person and his sureties. ifany, requiring him or them to attend at such court and at such time as may be specified in the summons.

(2) A juvenile Court, before which a child is bound by his recognisance to appear for sen-ence, on being satisfied that he has failed to observe any condition of his recognisance, may forthwith deal with child as for the' original offence.

Po\\(er hi order
parent ttl PH)
line instead or
child

118.-(1) Where a child is convicted of any offence for the commission of which a fine, compensation or costs may be imposed, and the court is of opinion that the case would be best disposed ,of in the interest of, the child by the imposition of a' tine, compensation or 'costs, whether with or without any other punishment, the court may in any case, order that the tine, compensation or costs awarded be paid by the parent, guardian or relative of the child instead of by the child. unless the court is satisfied that the parent, guardian, or relative of child cannot be found or that he has not contributed the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent, guardian, or relative who, having been required to attend, has failed to do so, but no such order shall be made without giving the parent. guardian or relative an opportunity of being heard.

(3) Any sum imposed or ordered to be paid by a parent, guardian, or relative may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent, guardian or relative of the child with was charged.

(4) A parent or guardian may appeal against an order issued under this section.

(d) Alternative Sentence.\'

Prohibitit111 oj'
cIIsI(lIiaI
sentence and
alternative
punishments

119.-(1) A child shall not be sentenced to imprisonment.

(2) Where a child is convicted of any offence an offence punishable with imprisonment ,the court may, in addition or

La1\ iif/he Child

alternative to any other order which may be made under this Act-

- (a) discharge the child without making any order;
- (b) order the child to be repatriated at the expense of Government to his home or district of origin if it is within Tanzania; or
- (c) order the child to be handed over to the care of a fit person or institution named in the order, if the person or institution is willing to undertake such care.

When appointed school order may be made

120.-(1) Where a child is convicted of an offence which if committed by an adult would have been punishable by a custodial sentence, the court order that child be committed to custody at an approved school.

(2) An order referred to under section (1), shall not be made unless the patron of the approved school to which the child is to be committed has informed the Juvenile Court that he has a vacancy which may be filled by the person in respect of whom it is proposed to make the order.

(3) An order made under this section shall be referred to as an approved school order.

PART X

APPROVED SCHOOLS

Appointed school

121.-(1) Minister responsible for social welfare may establish school or institution to be an approved school for the purposes of this Act.

(2) The Minister responsible for social welfare may, by notice in the *Gazette*, appoint a person or a body of persons to be a patron or a manager of an approved school.

Appointment of Board of Visitors

122.-(1) The Minister responsible for social welfare shall, by order, establish a Board of Visitors in respect of any approved school which Board shall consist of -

- (a) a Member of Parliament of that area where the approved school is located;
- (b) the patron or matron;

[III] or the 'Child

- (c) the Social Welfare Officer;
 - (d) the District Education Officer;
 - (e) the District Executive Director of local government authority where the approved school is located;
 - (f) the District Community Development Officer;
 - (g) the Regional Prisons Officer.
- (2) The members of the Board shall hold office by virtue of their offices,

Board or Board

- 123.-(1) The Board or any member of the Board with the permission of the Chairman may -
- (a) visit the school from time to time;
 - (b) call for all books, papers and records relating to the management and discipline of the school;
 - (c) interview members of the staff and pupils whether resident or non-resident;
 - (d) inspect and test the quality and quantity of the pupils' food;
 - (e) inquire into the maintenance of discipline;
 - (f) ascertain whether reasonable facilities are provided for the education, training, welfare and recreation of the pupils;
 - (g) investigate any complaint made by any pupil or member of the staff; or
 - (h) exercise such other powers as may be prescribed.
- (2) A Board may, where it considers it necessary or desirable, make any recommendation in relation to the management of the approved school to the Minister,

Approved School Orders

- 124.-(1) An approved school order shall specify -
- (a) the school to which the child or young person is to be sent; and
 - (b) the person, who is to be responsible for conveying him to the school.
- (2) Every order shall contain such information as is, in the opinion of the court, material to be known by the manager of the school.
- (3) A certified copy of every order shall be delivered to the person responsible for conveying the child to the school and he shall deliver the same to the manager.

Child

(4) An authority for the admission of a child for a period not exceeding three years or until he is eighteen, whichever is earlier.

S, lisp-11>iolbr
"....."pp.ro\~d
scliol nn.kr=,

US. The approved school order may be suspended, if, in compliance of arrangements for the reception of the child in an approved school, or on account of his ill-health or for other good and sufficient reason and in that case the court may commit the child to a retention home or may order a child to be committed to the care of a fit person willing to undertake the custody, or may release him on bail.

AUlhDril)' Itr
<.klenliol1

U. A child while admitted in an approved school in accordance with the provisions of this Act and while being conveyed to or from school shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the school.

Extension of
poril>dor
d-I-11lioll

117. Where the manager or patron or matron of all approved schools is satisfied that a child whose period of detention is about to expire needs further care or training he may, apply to the court for an order to detain that child for a further period not exceeding one year but, that child shall not be detained beyond the age of eighteen years,

1)\ n.r.l-r(.
manager to
bring persons
d-lainc.J before
~lcourt

U. Where the manager or patron or matron of all approved schools is satisfied that a child committed to the school is of such an unduly depraved character that it is undesirable that he should remain at the school or to be incorrigible or to be exercising bad influence on the inmates of the school, the manager or patron or matron may, with the approval of the Board, cause that person to be brought before a court having jurisdiction in the place where the approved school is situated or before the court which made the approved school order and a court may make any order which could have been legally made by the court under the provisions of this Act and may commit the whole or part of the unexpired term of the period of detention.'

pischarge mid
transfer from
approved
school

129, The manager or patron or matron of an approved school-

(II) with the approval of the Board, or if any child whose period of detention has exceeded six months

Law of the Child

- but has not exceeded twelve months to be discharged;
- (b) order any child whose period of detention has exceeded twelve months to be discharged;
- (c) with the approval of the Board, order any child to be transferred from one approved school to another.

Time for appeal

130.-(1) Every appeal against an order or sentence made or passed by a Juvenile Court under the provisions of this Act shall be entered within seven days from the date of the order or sentence appealed against.

(2) The High Court may for good cause admit an appeal out of time.

(3) Where no appeal is entered against an approved school order made by a district court under the provisions of this Act within the time prescribed by subsection (7) of section 28, a copy of the order together with the proceedings shall be sent forthwith to the High Court and the High Court may, in the exercise of its revisional jurisdiction, make such order as it may deem proper.

Approved school order to be considered by High Court pending

131. Notwithstanding anything contained in this Part, an approved school order shall not be suspended for the reason only that an order by the High Court in the exercise of its appellate or revisional jurisdiction has been received unless the child concerned is committed to the care of a fit person or released on bail.

Power to make rules

132.-(1) The Minister responsible for social welfare may make rules for the better carrying out of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, for providing for the following purposes

- (a) management, control, discipline and interior economy of approved schools and retention homes;
- (b) registration of children committed to approved

Law a/the Child

- schools;
 - (c) visits of parents, guardian or relative of the child;
 - (d) education, training and rehabilitation of children.
- (2) Rules made under this section may apply to all approved schools and retention homes or to any particular approved school and retention home.

PART XI

INSTITUTIONALISED CARE

(a) *Approved residential home or Institution*

Approval of
residential
homes

133.- (1) The Government may establish an approved residential home or institution for the care of children in such areas as the Commissioner may determine.

(2) Any person may establish and operate an approved residential home or institution for the care of children subject to the approval of the Commissioner.

(3) An application for the approval of an approved residential home or institution shall be made in a prescribed manner and submitted to the Commissioner.

(4) The Commissioner shall cause the approved residential or institution home to be inspected by the social welfare officer and if the home meets the required standard it shall, by notice published in the *Gazette*, be approved.

(5) Upon approval by the Commissioner, the approved residential home or institution shall obtain a licence to operate which licence shall be issued by the Commissioner.

(6) The provisions of subsection (3) shall not apply to a government approved residential home or institution.

(7) A privately owned approved residential home or institution in existence at the commencement of this Act, shall apply to the Commissioner for approval and be issued a licence within a period of six months from the commencement of this Act.

(8) For the purposes of this Sub Part the "approved residential homes" and "institution" shall include-

- (a) a children's home;
- (b) a retention home;
- (c) an approved school;

Law of the Child

- (d) a crisis centre; and
- (e) any other establishment designated as

such by the Commissioner.

(9) The approved residential homes and institutions referred to under subsection (8) shall, by notice, be published in the Gazette.

**Monitoring of
homes and
institutions**

134.-(1) It shall be the duty of the Commissioner to monitor and supervise approved residential homes or institutions.

(2) For the purpose of promoting the welfare of children, every approved residential home and institution shall establish a committee of not less than four fit persons for overseeing the running and general administration of the children's welfare and development.

(3) The Commissioner may delegate to any person within the public service, powers to discharge the duty referred to under subsection (1).

**Power of
Commissioner
to give
directives to
homes**

135. The Commissioner may give such orders and directions to an approved residential home or institution as may be necessary for promotion of the development of a child.

**Inspection
of homes**

136. The Commissioner may direct inspection of an approved residential home or institution to be carried out by the social welfare officer at any time to ensure that the approved residential home or institution is being maintained at the required standards.

**Admission of
children to
approved
residential
homes**

137.-(1) A child may be admitted to an approved residential home or institution -

- (a) pending the determination by a court for care and protection.
- (b) on the recommendation of a social welfare officer who has determined that the approved residential home or institution is the most suitable place for the child; or
- (c) with the approval of a social welfare officer, if the child is 'an orphan and family care and fosterage are not available.

(2) Where an approved residential home or institution fails to maintain the required standards, its licence to operate may be

Law of the Child

cancelled or suspended by the Commissioner and alternative arrangements shall be made by the Commissioner for the children in the approved residential home or institution.

(3) It shall be the responsibility of the staff of an approved residential home or institution, the social welfare officer and any other person responsible for maintenance of a child, to assist him to approve to become reunited with his parents, guardians or relatives.

(4) After a child has been returned to his family home the patron, manager and the social welfare officer shall keep in regular contact with the child and his family to ensure that the best interest of the child is maintained.

(5) Where a child is unable to return to his parents or to go to his foster-parents the child shall be encouraged and assisted by the patron, manager and social welfare officer to become independent and self-reliant.

(6) Subject to the provisions of subsection (5), a child shall not be required to leave an approved residential home or institution if he is under the age of eighteen.

Parental
responsibility
of staff of
approved
residential
homes

138.-(1) While a child is in an approved residential home or institution the staff of the home or institution shall assume parental responsibilities for the child and ensure that the rights of the child under this Act are protected.

(2) Notwithstanding subsection (1), parents, guardian or relatives of a child placed under any approved residential home or institution shall supplement the effects of the approved residential home or institution to safeguard and promote the welfare of the child by visiting the child and otherwise protecting his best interests.

(3) Parental responsibility of a child in the approved residential home or institution shall include an application to a court to protect the best interest of the child where it becomes necessary.

Power of court
to order
contribution

139.-(1) The court may order that the parent, guardian or relative of a child in an approved residential home or institution to contribute towards the maintenance of the child in the approved residential home or institution.'

(2) Any amount to be contributed shall be reasonable and

Law of the Child

may be varied by the court if there is a change in circumstances of the contributor.

Cancellation
or the licence
for approved
homes

140. Where the Commissioner has reasonable grounds for believing that-

- (a) the premises of the children's home are no longer fit to be used as a children's home;
- (b) a children's home is being kept in an unclean or in an un sanitary condition;
- (c) the provisions made for the health or welfare of children who have been received into the children's home are inadequate; or
- (d) the licensee has failed to comply with any regulations governing the establishment and management of the approved residential home,

he shall cancel the licence.

Right to be
heard

141.-(1) The Commissioner may, after giving the licensee the opportunity of being heard or making representations, by notice in writing require him before the date specified in the notice to remedy, to the satisfaction of the Commissioner, the defects specified in the notice.

(2) Where the licensee fails to comply with the requirements of a notice under subsection (1), the Commissioner, after calling upon the licensee to show cause why his licence should not be cancelled, may cancel the said licence.

Reasons for
decision (to be
given

142. The Commissioner, on the application of a person whose application for the issuance or renewal of a licence has been refused or a person whose licence has been cancelled, shall inform that person in writing without delay of the reasons for his decision.

Approved
residential
homes and
adoption

143. -(1) Subject to the provisions of this Act, a child in an approved residential home or institution shall be put up for adoption if it is in his best interest.

(2) The decision for the adoption of a child in an approved residential home or institution shall be taken by the Commissioner in consultation with the management of the home.

(3) The adoption under subsection (2), shall follow the

J-law Of the Child

procedure for adoption provided for in this Act,

A mother in
prison with a
child

144.-(1) Where a mother is in prison with her child under any circumstances, all measures shall be taken by the prison authorities to ensure that the child receives the required child care in the form of adequate diet, nutrition and child health care including immunization.

(2) The prison authorities shall inform the District Social Welfare Officer about the child who is in prison with his mother and who is, no longer breastfeeding.

(3) Where the social welfare officer has received information from the prisons authority, he shall determine the most suitable place for the child, which may be -

- (a) the parent who is not in prison;
- (b) a relative;
- (c) a guardian; or
- (d) a fit person;

(4) In the absence of persons referred to under subsection (3), the Social Welfare Officer shall cause the child to be admitted in an approved residential home until such times when the mother is discharged from prison.

Minister to
make
'regulations for
homes

145. The Minister responsible for social welfare may, in consultation with the Minister responsible for children affairs, make regulations for better carrying and maintaining the standards of approved residential homes or institutions, day-care centres and creches.

Offences and
Penalties

146.-(1) The penalty for contravening, in respect of the rights of the child and parental duty provided for under this Act, shall apply to the manager, patron a holder of a licence and any person in an approved residential home or institution who fails to uphold the rights of the child.

(2) Any person who -

- (a) operates an approved residential home or institution without a licence issued by the Commissioner;
- (b) continues to operate an approved residential home or institution in contravention of this Part; or

Law of the Child

(c) obstructs or hinders a social welfare officer conducting an inspection under this Part, commits an offence and shall be liable on conviction to a fine of not less than two million shillings and but more than ten million shillings or to a term of imprisonment for a term of not exceeding one year or to both; and in the case of a continuing offence to a further fine of not less than one hundred thousand shillings for each day on which the offence continues.

(b) Day-care centres and creches

Application to
operate day-
care centre and
creche

147.-(1) All application for a permit to operate a day-care centre or a creche shall be submitted by the applicant to the Commissioner.

(2) The application shall be made in a prescribed manner and shall be accompanied by such fee as may be prescribed.

(3) Upon receipt of an application for registration of a day care center or creche the Commission shall cause an inspection of the premises to be made, and may register it as a day care centre or a creche if he is satisfied that :-

- (a) the premises are suitable for carrying on a day care centre;
- (b) the applicant has sufficient financial and human resources to maintain the premises in accordance with the requirements of a day care centre and a creche as may be prescribed in regulations;
- (c) the applicant has or is able to provide on the premises all facilities necessary for the management of a day care centre and a creche;
- (d) the ownership of the premises is not subject of any proceedings before any court or any other authority.

(4) In deciding whether or not the premises are suitable for registration, the Commissioner shall take into account the proposed programmes for maintenance and care of the children and in particular -

- (a) whether the programmes if carried out in those premises would, promote the development of children attending at the centre or creche into cultured and good mannered persons;
- (b) the programmes of the day care centre or creche

Law of the Child

would provide a sound foundation for enabling the children to grow up into healthy and responsible citizens; and

- (c) the facilities of the proposed day care centre or creche shall be suitable for preparation of children for pre-primary education.

(5) The social welfare officer shall inspect the proposed day-care centre or creche and after satisfaction that the requirements of this Act have been complied with, shall approve the application.

(6) Where the Commissioner grants an application under this section, he shall issue to the applicant a registration certificate in relation to premises registered which shall contain a clear description of the premises and such other particulars as prescribed.

(8) Any day-care centre or creche which operates without a registration under this section shall be closed.

(9) Before the closure under subsection (8), the Commissioner shall issue a fourteen days notice.

Prohibition of
certain persons
to operate day
care centers

148.-(1) A person who has been convicted of an offence against children or any sexual offence shall not be employed in a day care center or a creche.

(2) For the purposes of subsection (1), the Commissioner shall ensure that the manager, patron or matron or any other person operating or working in a daycare centre or creche is vetted by the office of the commissioner.

Registration of
owners of
centers

149. -(1) A child kept in a day care centre or creche shall be below the age of five years.

(2) Subject to subsection (3), an application for registration as an owner or manager of a day-care centre or creche shall be made to the Commissioner in the prescribed manner and shall be accompanied by the prescribed fees.

(3) The Commissioner may grant all application for registration under this section only if he is satisfied that -

- (a) the premises in which the applicant proposes to establish a daycare center or a crech" been inspected and registered;
- (b) the applicant has sufficient financial resources such as would enable him to secure appropriate staff and

Law of the Child

to provide and care for the children, in accordance with the standards required of a day care center or creche;

- (c) the applicant is not disqualified in any other way from being registered, or a person whose registration has previously been cancelled; and
- (d) the applicant meets in all respects such other requirements which may be prescribed in respect to owners or managers of day care centers or creche.

(3) The Commissioner shall issue an appropriate certificate to the person registered, containing such particulars as the Minister may prescribe.

Register of the
day care
centers and
creches

150.-(1) The District Social Welfare Officer shall cause to be kept and maintained separate registers in the prescribed form in respect of registered day care centres and creche and registered owners or managers of day care centres.

(2) Each register shall contain the name of every day care centre or creche and every owner or manager of a day care centre and creche, registered under this Act together with such other particulars in the day care centre and the owner or manager and the registrar may delete or amend any of those particulars as circumstances may require.

(3) At least once each year, the registrar shall cause to be published in the Gazette or in any newspaper published and circulated throughout the United Republic, a list of all day care centres and creche whose registration has been cancelled and those which have been newly registered.

Department to
inspect

151.-(1) The Commissioner shall inspect the premises, books, accounts and other records of the day-care centre or a creche, an approved residential home or institution at least once in every six months and shall submit a report of the inspection to the Minister responsible for social welfare and a copy to the Minister responsible for children affairs.

(2) Where the inspection reveals that the day-care centre or a creche is not being managed efficiently in the best interest of the children, the Commissioner shall suspend the permit and the owner or operator shall be ordered to make good any default within a stipulated time.

(3) Where the owner or operator fails to make good the

Law of the Child

default within the stipulated time. the permit shall be cancelled.

(4) Subject to subsection (2), where the Commissioner has cancelled a licence, he shall immediately make or cause to be made applications for an order of the court for re-allocation of children and their relevant documents to another day-care centre, creche or approved residential home or institution.

S) The Commissioner shall, after inspection reveals that the day care center, creche or approved residential home whose licence was cancelled, has made good the default. renew the registration~ provided that the renewal shall be done two years after the cancellation.

PART XII

MISCELLANEOUS PROVISIONS

By-laws and
guidelines

152. A local government authority may, in consultation with the Minister responsible for social welfare, shall issue by-laws and guidelines as it may determine for the operation approved residential homes, institutions, day-care centres and creches within its district.

Directives

153.-(1) The Minister responsible for social welfare shall establish training centres for child care workers intending to work in approved residential homes, institutions and day care centres.

(2) The Minister may, in consultation with the Minister responsible for Social Welfare and the Minister responsible for education issue such policy directives as may be necessary for the operation of approved residential homes, institutions and day-care centres and creches.

Existing
operators

154. Any person who owns or operates a day-care centre or a creche before the commencement of this Act, and intends to continue to operate such approved residential homes, institutions, day-care centres or creche shall apply to the Commissioner for a permit within six months from the commencement of this Act.

Offences and
penalties

155. Any person who -

- (a) operates approved residential homes, institutions and day care centre without a licence or permit issued by the Commissioner;
- (b) continues to operate an approved residential home in contravention of this Act or

Law of the Child

(c) obstructs or hinders a social welfare officer conducting an "inspection under this Act, commits an offence and shall on conviction be liable to a fine of not less than two million shillings but not more than five million shillings or to imprisonment for a term not exceeding one year or to both and, in the case of a continuing offence, to a further fine not exceeding one hundred thousand shillings for each day on which the offence continues.'

Appeals

156. Unless otherwise provided for in other laws, any person aggrieved by the decision of the Commissioner for-

- (c) refusal to grant or renew a licence or a permit;
- (d) the cancellation of a licence or a permit;
- (e) refusal of registration of the day care centre; or
- (f) cancellation of a registration,

may within thirty days after receiving a notice of the decision from the Commissioner, appeal to the Minister for social welfare against such decision.

Regulations

157. The Minister responsible for social welfare shall, after consultation with the Minister responsible for children affairs, make regulations prescribing for-

- (a) care and protection of children; procedure for admission and removal of children, from approved residential homes or institutions;
- (b) foster care placement;
- (c) adoption;
- (d) child labour;
- (e) apprenticeship;
- (f) approved residential homes and institutions; and
- (g) generally for the promotion and furtherance of the objects of this Act.

Repeals "tid
savings
Cap. Nos.
13. 61. 180.
278 and 335

158.-(1) The following laws are hereby repealed -

- (a) the Affiliation Act;
- (b) the Adoption Act;
- (c) the Day Care Centres Act;
- (d) the Children and Young Persons Act; and

Law of the Child

- (e) the Children Home (Regulation) Act.
- (2) Notwithstanding the repeal of the laws set out in subsection (1)-
 - (a) all persons empowered under the repealed laws to exercise control over any matter stipulated in this Act shall be deemed to have been empowered to exercise corresponding powers conferred and performance of similar functions as stipulated under this Act;
 - (b) all licences and permits granted under the provisions of the repealed laws shall be deemed to have been made, granted, or issued under and subject to the provisions of this Act;
 - (c) all rules made under the provisions of the repealed laws shall be deemed to have been made under this Act and shall remain in force and have effect until replaced in accordance with the provisions of this Act; and
 - (d) all orders, notices, by-laws, directives given or anything given or made by a person authorized as such by an officer so authorized to give or make orders, notices, by-laws, directives given under the repealed Acts shall be deemed to have been made under this Act and shall remain in force and have effect until amended or withdrawn under this Act.
- (3) Any fees imposed and certificates issued under the provisions of the repealed laws shall, notwithstanding the repeal of the aforementioned laws remain in force as if such fees had been imposed or certificate issued under this Act until the same are revoked or replaced in accordance with the provisions of this Act.

PART XIII

CONSEQUENTIAL AMENDMENTS

(a) Sub Part I

Construction
Cap. 29

159. This Sub Part shall be read as one with the Law of Marriage Act, hereinafter referred to as the "principal Act".

Law of the Child

Amendment of
Section 2

160. The principal Act is amended in section 2 by

- (a) deleting the definitions of the term "child" and substituting for it the following term:

"child" means a person under the age of eighteen;

- (b) deleting:

- (i) all references relating to the definition of the terms "infant" and "infant child";
(ii) the words "infant children" and "infant" wherever they appear in the Act and substituting for them the words "children" and "child", as the case may be.

Amendment of
Section 17

161. The principal Act is amended in section 17 by-

- (a) inserting a full-stop in place of a comma that appears after the word "guardian"; and
(b) deleting the phrase "but in any other case, or if those persons are dead, shall not require consent."

Amendment of
Section 139

162. The principal Act is amended in section 39(c), by deleting the words "wife had" and substituting for them the words "the person had".

Amendment of
Section 64

163. The principal Act is amended in section 64(l) by deleting the word "infant" appearing between the words "the" and "children".

Amendment of
Section 67

164. The principal Act is amended in section 67, by deleting the word "infant".

(h) Sub Part II

(unstructi)11
Cap. 353

165. This Sub Part shall be read as one with the Education Act, hereinafter referred to as the "principal Act".

Amendment of
Section 35

166. The principal Act is amended in section 35 by inserting immediately after subsection (l), the following provision:

"IA. Without prejudice to subsection (l), no child of the age of seven or above shall be refused enrollment in a school."

Law of the Child

Amendment of
Section 59

167. The principal Act is amended in section 59 by adding a new section 59A as follows:

Obligation to report 59A.-(1) Every teacher, a craftsman and a trainer shall be under the general obligation to report evidence or concerns of abuse perpetrated on the child by any person to the appropriate social welfare officer.

(2) Every teacher, a craftsman and a trainer shall have a duty to ensure that best interest of a pupil is of a paramount consideration. "

Amendment of
Section 60

168. The principal Act is amended in section 60 by-

(a) adding a new paragraph (k) as follows:

"(k) impregnates a pupil of primary or secondary school.":

(b) substituting for the words "ten thousand shillings" and the words "six months" with the words "five hundred thousand shillings" and "three years" respectively.

(c) Sub Part III

Construction
Cap. 366

169. This Sub Part shall be read as one with the Employment and Labour Relations Act. hereinafter referred to as the "principal Act.

Amendment
of
Section 5

170. The principal Act is amended in section 5 by-

(a) in subsection 6(a) inserting the words "and training" between the words "employment" and "of".

(b) adding the following paragraph:

"(9) Without prejudice to the provisions of this section, every employer shall ensure that every child lawfully employed under this Act is

Law of the Child

protected against discrimination or acts which may have negative effect on the child taking into consideration age and evolving capacities,"

(d) Sub Part IV

Construe-tion
Cap, 16

171. This Sub Part shall be read as one with the Penal Code, hereinafter referred to as the "principal Act",

Amendment
of
Section 15

172. The principal Act is amended in section 15 by adding a following new subsection (4) as follows-

"(4) Any person under the age of twelve years who commits an act or omission which is unlawful shall be dealt with under the Law of the Child Act. 2009,"

Amendment
of
Section J7

173. The principal Act is amended in section 17 by adding the following phrase immediately after the word "offence" appearing at the end of the section as follows "unless the offender is a child",

Amendment
of
Section 130

174. The principal Act is amended in section 130(3)(c) by inserting the following words "schools, daycare centre, children's home or any other institution, organization or agency where there is a duty of care" between the words "hospital," and "takes",

Amendment
of
Section 131

175. The principal Act is amended in section 131 by-

- (a) in subsection (2)(c), deleting the phrase "life imprisonment pursuant to subsection (1)" and substituting for it the phrase "five years with corporal punishment",
- (b) in subsection (3), deleting the word "whoever" and substituting for it the following "a person other than a person referred to under subsection (2),"

Amendment
of
Section 138

176.. The principal Act is amended in section 138 by-

- (a) deleting the word "fifteen" and substituting for it the word "eighteen", wherever it appears in that section;
- (b) repealing subsection (6),

Law of the Child

Amendment
of
Section 138B

177. The principal Act is amended in section 138B by-
- (a) designating section "138B" as 138B(1);
 - (b) deleting the words "five" and "twenty years" and substituting for them the words "fifteen" and "thirty years without option of fine";
 - (c) adding a new subsection (2) as follows:
"(2) The court may, in addition, order for compensation of such amount of money to be paid to the victim."

Amendment
of
Section 138C

178. The principal Act is amended in section 138C (2)(b) by deleting the word "fifteen" and substituting for it the word "eighteen".

Amendment
of
section 141

179. The principal Act is amended in section 141 by-
- (a) deleting the words "under the age of fifteen years"; and
 - (b) deleting the words "and".

Amendment
of
Section 142

180. The principal Act is amended in section 142 by deleting the word "sixteen" wherever it appears in that section and substituting for it the word "eighteen",

Amendment
of
section 144

181. The principal Act is amended in section 144(3)(a) and (b) by deleting the word "sixteen" and substituting for it the word "eighteen".

Amendment
of
Section 147

182. The principal Act is amended in section 147 by deleting the word "female".

Amendment
of
Section 154

183. The principal Act is amended in section 154 by deleting the word "ten" and substituting for it the word "eighteen".

Amendment of
section 156

184. The principal Act is amended in section 156(1) by deleting the word "fourteen" and substituting for it the word "eighteen",

Law of the Child

Amendment of Section 160 **185.** The principal Act is amended in section 160 by deleting the word "ten" and substituting for it the word "eighteen".

Amendment of Section 161 **186.** The principal Act is amended in section 166 by deleting the word "fourteen" and substituting for it the word "eighteen".

Amendment of Section 167 **187.** The principal Act is amended in section 167 by deleting the word "fourteen" and substituting for it the word "eighteen".

Amendment of Section 169 **188.** The principal Act is amended in section 169 by deleting the word "fourteen" and substituting for it the word "eighteen".

Amendment of Section 215 **189.** The principal Act is amended in section 245 by deleting the phrase "fourteen years of age if a male, or under sixteen years of age if a female" and substituting for it the word "eighteen years of age".

Amendment of Section 212 **190.** The principal Act is amended in section 252 by deleting the word "fourteen" and substituting for it the word "eighteen".

(e) Sub Part V

Construction of Cap. 20 **191.** This Sub Part shall be read as one with the Criminal Procedure Act, hereinafter referred to as the "principal Act".

Amendment of Section 188 IRR **192.** The principal Act is amended in section 188 by-

- (a) designating it as subsection (1);
- (b) adding new subsection (2) as follows:
 - "(2) Notwithstanding subsection (1), children under the age of eighteen shall have their names and identities protected."

Law of the Child

SCHEDULE

(Made under section 70)

FORM OF ENTRY IN ADOPTED CHILDREN REGISTER

1	2	3	4	5	6	7	8
No. of entry	Date and Country of birth of Child	Name and surname of Child	Sex of Child	Name and surname, address and occupation of adoptive parent or parents	Date of adoption order and description of court by which the order was made	Date of entry	Signature of officer deputed by registrar-General to attest the entry

OBJECTS AND REASONS

The Bill intends to make proposals for the enactment of the Law of the Child Act, 2009. The intended law contains provisions which provide for the improvement of the means under which children's rights are given, custody and protection of children's rights with a view of harmonizing various laws, International conventions and agreements on the Rights of the child, the National policy on children for the purpose of having a comprehensive law which protect children from any kind of discrimination or humiliation.

Law of the Child

Matters of great concern under this Bill are those which prospect the Rights of children and the definition of the term "child".

The Bill has specifically stipulated for guidance, care, maintenance and parentage of a child in line with equality, growth and the right of a child to reside with parents, burning of any acts which are the result of outdated customs, prohibition of child labour and consideration of children with special needs. The Bill also provides for the amount of money to be paid by putative father by the order of the court to the child who has been born outside wedlock.

On the matter of discrimination, exploitation and child labour, this Bill provides conditions concerning notorious children by reviewing various laws which provide for procedures of dealing with children issues by introducing penalty instead of imprisonment. The aim is to give penalty which shall help to rehabilitate the said convicted child.

Therefore, the Bill has provided types of penalties and the way which they will be issued and implemented. Hence some of criminal offences like robbery, rape, selling and transportation of things for children's remain as they are. This Bill provides conditions for a person who needs to adopt a child to live in the country for two years and also his details must be sought from his country in which he was having permanent residence before coming to this country. On the issue of inheritance the Bill provides for conditions which remove discrimination on gender.

The Bill is divided into XIII Parts.

Part I of the Bill contains preliminary provisions involving the title of the Bill, commencement date, definition of words and phrases used.

Law of the Child

Part II of the Bill provides for general principles and statements of the rights and welfare of the child as they are recognized by the Convention on the Rights of the Child and the African Charter on Rights and Welfare of the Child particularly providing the definition of the Child, right to life, non discrimination of a child, right of identity and nationality, rights to parental care, right to property opinion, protection against exploitation and child's corresponding duties.

Part III provides for the care and protection of the child from real or potential harm. The Part also imposes a duty to the social welfare, the local government authorities to investigate and apply to the court for the supervision or care orders for the child. The bill further gives power to the court to issue care or supervision orders as it deems appropriate to place the child under the care of a fit person, approved residential home or foster parent.

Part IV of the Bill provides for foster care placement. The Bill further provides for guidelines for persons entrusted with the responsibility towards children under their care. It further provides for conditions for foster care offences for removing a child without authority of the persons under whose custody the child is placed. The Bill also provides for restriction on publishing any information or photograph related to the identification of a child without permission of the Court.

Matters relating to the parentage, custody, access and parent's duty to maintain a child, maintenance, health, medical care and are provided for under Part V. It also provides for procedure and criteria for application of parentage, proof of parentage, application for custody, application and procedure for maintenance.

Law a/the Child

Part VI of the Bill deals with qualifications of persons who are eligible for fostering or adopting children. Restrictions and consent of a person adopting a child and other matters related to inheritance where an adopter dies interstate are provided therein.

Part V 11 of the Bill provides for employment of children and prohibits children under eighteen years to engage in any exploitative labour. This Part also provides for the manner in which a fifteen year old child becomes an apprentice under the supervision of a craftsman after entering into an apprenticeship agreement.

Part VIII of the Bill provides for the duty of local government authorities in safeguarding and promoting the welfare of children within its jurisdiction. The Part creates a local authority who has the duty to mediate, interfere and provide necessary assistance wherever the rights of children are interfered with or infringed. The authority is also mandated to work in collaboration with the police and the Social Welfare Officer in tracing any lost or abandoned child.

Part IX of the Bill proposes the establishment of a Juvenile Court to deal with matters relating to children in conflict with the law and children as victims and witnesses. It also regulates proceedings in the Juvenile Court, administration of custodial and non custodial sentences.

Matters relating to the establishment and management of the approved schools are provided for under Part X.

Part XI of the Bill provides for the establishment of homes for the care of children in need of institutionalized care, the manner in which these homes will be operated and inspected and also the modalities for admission therein. The Part further provides for responsibilities of the managers, patrons and staff of a home. The

Law of the Child

Part further provides for operation of the daycare centers and creches.

Part XII of the Bill provides for miscellaneous provisions including powers of the Minister to make regulations. The Part also deals with matters relating to repeals, savings, offences and penalties which can be imposed in contravention of the proposed law.

Part XIII of the Bill provides for appeals and consequential amendments of various laws. The thrust of the amendments is to bring the amended laws in conformity with the proposed Law of the Child Act, 2009.

MADHUMUNINASABABU

Madhumuni ya Muswada huu ni kuweka masharti maalum kwa ajili ya kuboresha, kuhifadhi na kulinda haki za watoto zilizoainishwa katika sheria mbalimbali ili kukidhi matakwa ya Mikataba ya Kimataifa kuhusu Haki ya Mtoto pamoja na Sera ya Taifa ya Maendeleo ya Mtoto Tanzania. Kutokana na Nchi yetu kuridhia Mkataba wa Umoja wa Mataifa wa Haki ya Mtoto na Mkataba wa Umoja wa Nchi za Afrika Kuhusu Haki ya Mtoto na kuhuishwa kwa Sera ya Taifa ya Maendeleo ya Mtoto Tanzania, sheri a zetu nyingi hazijaweka bayana haki husika na hivyo kuzifanya kuwa na upungufu katika baadhi ya masharti kama vinavyoainishwa katika Mkataba huo na Sera ya Taifa ya Maendeleo ya Mtoto hususan katika kulinda na kuinua haki za watoto ikiwa ni pamoja na kuupa nguvu za kisheria Mkataba wa Kimataifa kuhusu haki ya Mtoto na Sera ya Taifa ya Maendeleo ya Mtoto.

Law of the Child

Mambo yaliyozingatiwa katika kulinda na kuhifidhi haki ya mtoto ni pamoja na kutoa tafsiri ya neno "Mtoto" ambayo itatumika kwenye Sheria zote nchini ikiwa ni pamoja na Katiba ya Nchi, Mikataba ya Kimataifa na Sera ya Taifa ya Maendeleo ya Mtoto.

Kuhusu uangalizi, matunzo na malezi ya mtoto, Muswada umeainisha haki za mtoto kwa kuzingatia misingi ya ustawi, haki ya kuishi na wazazi wake, kudhibiti vitendo vitokanavyo na mila potofu, kuzuia na kudhibiti ajira kwa watoto kwa kuzingatia makundi ya watoto wenye matakwa na mahitaji maalum. Pia Muswada huu unaweka kiwango cha fedha kitakachoamuliwa na mahakama kwa watoto wanaozaliwa nje ya ndoa ili kuweza kukidhi gharama za matunzo ya mtoto.

Kuhusu udhalilishaji, unyanyasaji na ajira kwa watoto Muswada umeweka masharti kuhusu watoto watukutu kwa kuonisha sheria mbalimbali zinazoweka utaratibu wa kushughulikia mtoto ikiwa ni pamoja na kutoa adhabu mbadala ya kifungo. Lengo ni kutoa adhabu za kumrekebisha mtoto. Hata hivyo kwa baadhi ya makosa ya jinai kama vile ujambazi, kubaka, kuuza au kusafirisha madawa ya kulevya, adhabu zake kwa watoto zinabaki kama sheri a zinavyoelekeza.

Muswada pia unaweka masharti ya mtu anaetaka kuasili mtoto kwamba awe anaishi nchini kwa kipindi kisichopungua miaka miwili pamoja na kuwa na taarifa zake kuhusu tabia yake kutoka nchi aliyokuwa anaishi kabla ya kuja nchini Tanzania. Kuhusu haki ya mtoto kuridhi, Muswada umeweka masharti ambayo yanaondoa ubaguzi wa mtoto unaozingatiajinsi.

Muswada huu umegawanyika katika sehemu Kumi na Tatu.

Sehemu ya Kwanza ya Muswada ni masharti ya jumla yanayojumuisha jina la Muswada na tarehe ya kuanza kwa muswada pamoja na ufafanuzi wa maneno yaliyotumika katika Mu-wada huu.

Law of the Child

Sehemu ya Pili inapendekeza maelezo ya jumla na haki ya ushauri wa Mtoto ambayo yanatambuana itifaki ya haki za *mtota* na mkataba wa haki na ustawi wa mtoto wa kiasia ikiwa ni pamoja na ufafanuzi wa haki ya kuishi ya mtoto kubaguliwa watoto haij ya kuta~buliwa na utaifa wao, haki ya kulelewa, haki ya kutoa maani, kulindwa dhidi ya kutumikishwa na wajibu wa mtoto.

Sehemu ya Tatu inajumuisha uapgalizi na ulinzi wa mtoto k. utokana na hatari mbalimbali. Sehemu hii pia inatoa wajibu kwa ustawi wa Jamii na Serikali za Mitaa kuchunguza na kuomba Mahakamani uangalizi au amri ya uangalizi wa mtoto. Muswada pia unatoa uwezo kwa mahakama kutoa amri ya uangalizi kama itaona kuna umuhimu wa kumuweka mtoto chini -ya uangalizi wa mtu anae aminika, kwenye makazi maalumu au kwa mlezi au mzazi.

Sehemu ya Nne ina maelezo kuhusu uangalizi na ulinzi. Katika sehemu hii Muswada unatoa mwongozo wa majukumu kwa mtu aliyepewa uangalizi wa mtoto. Zaidi unatoa masharti ya mlezi na kosa la kumuondoa mtoto bila ruhusa kwa mtu ambaye amepewa jukumu la uangalizi wa mtoto. Muswada pia unazuia utangazaji wa taarifa au picha zinazohusu habariza mtoto bila ruhusa ya Mahakama.

Mambo yanayohusu malezi, ulinzi na wajibu wa mzazi kwa mtoto wa matunzo, matibabu, elimu yamejumuishwa chini ya Sehemu ya Tano. Pia sehemu hii ina vifungu vinavyotoa utaratibu na vigezo vya maombi ya kuwa mzazi, uthibitisho wa kuwa mzazi, maombi ya uangalizi, maombi na utaratibu wa matunzo.

Sehemu ya Sita inashughulika na sifa za nani anafaa kuwa mlezi na uasili wa mtoto pamoja na haki za mtoto alie asiliwa. Pia inatoa maelezo ya kuzuia au kutoa kibali kwa mtu anayetaka kumuasili mtoto na mambo yanayohusu haki ya kurithi pede itakapOlokea muasili amefariki bila kuweka wosia.

Law of the Child

Sehemu ya Saba inaweka utaratibu wa jinsi ya kutoa ajira kwa watoto na uzuiaji wa watoto chini ya miaka kumi na naJJ.edhidi ya kazi za udhalilishaji. Sehemu hii pia inatoa jinsi ya mtoto wa miaka kumi na tano atakavyochukuliwa kwa ajili yakupatiwa mafunzo ya kazi chini ya uangalizi wa mtu anaemfundisha baada ya kuingia Mkataba.

Sehemu ya Nane inael (::;eawajibu wa Serikali za Mitaa katika kuunda na kuinua ustawi wa watoto katika mamlaka za Serikali ya mitaa husika. Sehemu hii inatoa wajibu kwa Serikali ya Mtaa kutoa matibabu na kuingia mahali popote kwa ajili ya kutoa msaada pale ambapo itaonekana haki za mtoto zinakiukwa. Pia mamlaka inauwezo wa kushirikiana na polisi na afisa wa ustawi wa jamii kwa ajili ya kuchunguza au kutafuta mtoto alitelekezwa au kupotea.

Sehemu ya Tisa inapendekeza kuundwa kwa Mahakama ya Watoto ambayo itashughulikia masuala yanayohusu makosa ya jinai. Pia sehemu hii inaweka taratibu za uendeshaji wa kesi kwenye Mahakama ya Watoto.

Sehemu ya Kumi inaweka masharti kuhusu kuanzisha na kuziendesha shule maalum za watoto.

Sehemu ya Kumi na Moja inaweka masharti ya uundwaji wa nyumba za kutunzia na kulelea watoto wenye shida ya maiezi, namna ya usimamizi na uendeshaji wa nyumba hizo na utaratibu wa kupokea watoto hao. Sehemu hii pia inaweka majukumu ya mameneja, wasimamizi wa vituo na wafanyakazi wa nyumba hizo. Sehemu hii pia inaweka masharti ya kuanzisha na kuendesha vituo vya kulelea watoto.

Sehemu ya Kumi na Mbili inaweka masharti ya jumla ambayo yanaainisha mamlakaya Waziri kutunga kanuni.

Law of the Child

Sehemu ya Kumi na Tatu inahusu kufutwa kwa baadhi ya Sheria pamoja na kufanya mabadiliko kwenye baadhi ya Sheria ambazo zinagusa masuala ya Watoto ili masharti ya Sheria hizo yaoane na masharti ya Sheria ya Mtoto inayopendekezwa.

Dar es Salaam,
25 Juni, 2009

MARGARET S. SITTA,
Waziri wa Maendeleo ya Jamii, Jinsia na Watoto

'''

r'

II