



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

ADOPTION OF CHILDREN (AMENDMENT)
ACT, No. 15 OF 1992

[Certified on 11th March, 1992]

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L.D.—O. 73/88

AN ACT TO AMEND THE ADOPTION OF CHILDREN ORDINANCE

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Adoption of Children (Amendment) Act, No. 15 of 1992.

Short
title.

2. Section 3 of the Adoption of Children Ordinance (Chapter 61) (hereinafter referred to as the "principal enactment") is hereby amended as follows :—

Amendment
of section 3
of Chapter 61.

(1) by the insertion immediately after subsection (5) of that section of the following new subsection :—

' (5A) (a) An adoption order shall be made in favour of any applicant who is not a citizen of Sri Lanka and not domiciled or resident in Sri Lanka if no other person who is a citizen of Sri Lanka and resident and domiciled in Sri Lanka has applied to adopt the child in respect of whom the application is made.

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

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

(2) in subsection (6) of that subsection, by the substitution for the proviso to that subsection of the following proviso :—

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

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

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

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

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

(b) a police report from the police authority for the respective police areas within which the applicants reside,

authenticated by the accredited representative of the Republic of Sri Lanka in that country.

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

“police report” means a report on the conduct and activities of the applicants.’

3. Section 4 of the principal enactment is hereby amended by the substitution for paragraph (c) of that section of the following paragraph:—

Amendment
of section 4
of the
principal
enactment.

“(c) that—

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

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

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

4. Section 10B of the principal enactment is hereby amended by the repeal of subsections (1) and (2) of that section and the substitution of the following subsections therefor:—

Amendment
of section
10B of the
principal
enactment.

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

(a) such spouses; or

(b) where the marriage of such spouses has been dissolved after the date of the adoption order, any one of such spouses; or

(c) where both spouses are deceased and if—

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

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

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

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

5. The following new section is hereby inserted immediately after section 10B, and shall have effect as if it were section 10C of the principal enactment :—

“ Every adopter residing outside Sri Lanka to furnish reports.

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

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

Insertion of new section 10c in the principal enactment.

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

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

6. Section 14 of the principal enactment is hereby repealed and the following section is substituted therefor :—

Replacement of section 14 of the principal enactment.

“Restriction on payment.

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

7. The following new section is hereby inserted immediately after section 27 and shall have effect as section 27A of the principal enactment :—

Insertion of new section 27A in the principal enactment.

“Prohibition against unlawful custody.

27A. (1) No person shall keep in unlawful custody in contravention of the provisions of this Act—

(a) any woman expecting a child during her pregnancy ;

(b) any child with or without his mother, for the purpose of giving such child for adoption.

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(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding twenty thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.”.

Amendment
of section
29 of the
principal
enactment.

8. Section 29 of the principal enactment is hereby amended in subsection (1) of that section, by the insertion immediately after paragraph (e) of that subsection, of the following new paragraph:—

“(ee) who is for the time being in charge of any childrens’ home which is maintained by a Non-Governmental Organisation and which is registered with the Department of Probation and Child Care Services;”.

Sinhala
text to
prevail
in case of
inconsistency.

9. In the event of any inconsistency between the Sinhala and the Tamil text of this Act, the Sinhala text shall prevail.