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THE CHILD RIGHTS ACT, 2024

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No.



Sierra Leone

2024

A BILL ENTITLED

THE CHILD RIGHTS ACT, 2024

Short title.

Being an Act to repeal and replace the Child Rights Act, 2007 (Act No. 7 of 2007), to make provision for the promotion of the rights and responsibilities of children and the obligation of the state to provide for such rights as outlined in the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of Children and to provide for other related matters.

[

] Date of commencement.

ENACTED BY THE PRESIDENT AND MEMBERS OF PARLIAMENT IN
THIS PRESENT PARLIAMENT ASSEMBLED.

PART 1-PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires -

"adoption" means the legal transfer or vesting through a court order of parental rights to a person or persons;

"barray gathering" means a traditional forum or gathering presided over by a traditional or community leader, open to all members of the community, including children but does not include a court;

"best interest of the child" means, in accordance with Article 3 of the United Nations Convention on the Rights of the Child and Article 4 of the African Charter on the Rights and Welfare of Children;

"Chairman" means the Chairman of the Ward Child Welfare Committee referred to in subsection (3) of of section 164;

"Charter" means African Charter on the Rights and Welfare of the Child which entered into force on the 29th November, 1999;

"child" means a person below the age of 18years;

"close in age defence" means a defence to a prosecution for an offence where the complainant is of or above the age of 14 years and the age difference between the complainant and the accused person is no more than 2 years;

"Commission" means the National Commission for Children established under section 143;

"Commissioner" means a person appointed as Commissioner of the Commission under section 145;

"Convention" means the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20th November, 1989 and its Optional Protocols of 8th September, 2000 and the African Charter on the Rights and Welfare of the Child, 1990;

"Council" means the Local Council;

"Court" means a juvenile court established under section 50;

"diversion" means the conditional channelling children who commit a minor or misdemeanour offence away from formal criminal proceedings towards a non-judicial process of holding a child accountable and addressing the offending behaviour;

"Executive Secretary" means the Executive Secretary of the Commission referred to in subsection (1) of section 156;

"female genital cutting" includes the cutting or removal of a part of the female genitalia;

"foster parent" means an adult person who is not a biological or legal parent of a child but is willing to provide care and support usually provided by the biological or legal parent and "foster" and "foster care" shall be construed accordingly;

"guardian" includes a person who, in the opinion of the court having cognisance of a case in relation to a child or in which a child is concerned, has for the time being in charge of, or control over a child or young person;

"harmful practices" mean persistent practices and behaviours that are grounded on discrimination on the basis of sex, gender, age and other grounds as well as multiple or intersecting forms of discrimination that often involve violence and cause physical or psychological harm or suffering, including female genital cutting;

"hazardous labour" means labour which deprives a child of his health, education or development;

"light work" means work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work;

"Minister" means the Minister responsible for children's affairs and "Ministry" shall be construed accordingly;

"national parents body" means a body comprising elected representatives from duly recognised parent advocacy organisations;

"night work" means work which is performed between 8:00 o'clock in the evening and 6:00 o'clock in the morning;

"probation officer" means a person appointed as such under this Act and includes a deputy probation officer or assistant probation officer;

"residential care" means care provided in a non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short-and long-term residential care facilities, including group homes - as defined in the UN Guidelines for the Alternative Care of Children;

"service provider" means a person or body of persons licensed or otherwise competent to provide services in health, education, child development or protection and for the general well-being of children.

2. (1) The fundamental principle to be applied in the interpretation and administration of this Act shall be that the short and long term best interests of a child shall be a primary consideration in any decision or action that may affect a child or children.

Application of principle of best interests of the child.

(2) In determining the best interests of a child, a person, court or an authority shall take into account -

- (a) non-discrimination in the respect accorded to a child in the enjoyment of his rights;
- (b) the right to life and maximum survival and development of a child;
- (c) respect for the views of a child; and
- (d) the spirit of the entire Convention and the Charter.

PART II - RIGHTS AND RESPONSIBILITIES OF CHILDREN AND THE RESPONSIBILITY OF THE STATE

3. (1) A child is a person below the age of 18 years.

Definition and verification of age of child.

(2) The verification of the age of a child shall be determined by a birth certificate, national civil registration record and such other documents as may be deemed appropriate.

(3) The Minister shall, where a document verifying the age of a child is not available establish guidelines to determine how the age of a child shall be verified.

(4) Subject to this section, the Court shall make inquiry about age of the child as it considers necessary and record findings but an order or judgment of the Court shall be invalidated by subsequent proof that the age of the child has not been correctly stated.

Right to
name,
nationality
and identity.

4. A child has the right, from birth, to a name, nationality and identity as far as possible, the right to know his natural parents and extended family.

Right to life,
survival and
development.

5. (1) A child has the right to life and to survival and development to the maximum extent possible.

(2) The parents of a child have the primary responsibility to provide support to their child in the enjoyment of the right to life and to survival and development under subsection (1) but they may be assisted by the State.

Right to
grow up
with parents.

6. A child has the right to live with his parents and family and grow up in a caring and peaceful environment unless it is proved, in court, that living with his parents would-

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

Right to
parental
property.

7. A child has the right to reasonable provision out of the estate of his parents, whether or not born in wedlock or adopted.

Right to
social
activity

8. A child has the right to participate in sports, or in positive cultural and artistic activities or other leisure activities.

Right to
opinion,
participation
and
association.

9. A child has the right to his opinion, participation in development activities and association or interaction with other person or persons.

10. (1) The minimum age of marriage of whatever kind shall be 18 years. Minimum age of marriage and right to refuse betrothal marriage.

(2) A child shall not be forced to be -

- (a) betrothed;
- (b) the subject of a dowry transaction; or
- (c) married.

(3) Notwithstanding any enactment to the contrary, a certificate, licence or registration shall not be granted in respect of a marriage unless the Registrar or other responsible officer is satisfied that the parties to the marriage are 18 years of the age or above.

11. (1) A child has the right to be protected from involvement in armed or any other kind of violent conflicts, and accordingly, the minimum age of recruitment into the armed forces shall be 18 years. Minimum age of recruitment into armed forces.

(2) The Government shall not -

- (a) recruit or conscript a child into military or para-military service or permit such recruitment or conscription by the armed forces;
- (b) use or permit the use of land mines and other weapons declared to be adverse to children under international law.

12. (1) A child shall be brought up and educated to take pride in his culture and national identity. Right to national culture and pride.

(2) A child shall be provided the opportunity to learn at least one indigenous Sierra Leone language from primary school level.

13. (1) A child shall, subject to age, ability and evolving capacities, - Responsibilities of child.

- (a) contribute towards family cohesion;
- (b) respect his parents, superiors and elders at all times and to assist them in case of need;
- (c) place his physical and intellectual abilities at the service of his country;
- (d) preserve and strengthen social and national solidarity;
- (e) preserve and strengthen positive cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and to contribute to the moral well-being of society;
- (f) preserve and strengthen the independence and the integrity of his country; and
- (g) exhibit diligence towards studies and work.

Responsibilities
of state.

14. The State shall, subject to this Act, be responsible to -

- (a) create institutions to provide for the rights of children;
- (b) support families to care for children;
- (c) make provision for and provide oversight to the care of children without parental care; and
- (d) generally, provide the enabling environment for children to grow up to their fullest potential.

Penalty.

15. A person who contravenes a provision of this Part commits an offence and is liable, on conviction, to a term of imprisonment of not less than 15 years or to a fine of not less than NLe. 50,000 or to both such imprisonment and fine.

PART III - GUIDING PRINCIPLES ON THE
IMPLEMENTATION OF THE RIGHTS OF THE CHILD

16. (1) In every law, public or private initiative, problematic situation and action, concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. Best interests of child.

(2) The best interests of the child, under subsection (1), includes -

- (a) a substantive right;
- (b) a fundamental and interpretive legal principle; and
- (c) a rule of procedure that aims to ensure the full and effective enjoyment of all the rights recognised in the United Nations Convention on the Rights of the Child and whose primary consideration is to ensure the holistic development of the child.

(3) For the purposes of subsection (2), -

- (a) the assessment of the best interests of the child is a simple and continuous procedure that should be undertaken in individual cases where decisions need to be made for an individual child, in light of the specific circumstances of each child or group of children, and should evaluate and balance all the elements necessary to make a decision in a specific situation for a particular child or group of children; and
- (b) the holistic development of a child is the well-being of the child in a broad sense, including basic material, physical, educational and emotional needs as well as the need for affection and security.

Non-

discrimination.

17. A person, court or other authority shall, in determining the best interests of a child,-

- (a) take into account the general principle of non-discrimination in the respect accorded each child in the enjoyment of his rights;
- (b) respect and ensure the rights conferred to a child under this Act without discrimination of any kind, irrespective of the child's or his parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status; and
- (c) take all appropriate measures to ensure that a child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Child's
opinion
and view.

18. (1) A child, capable of forming his own views, has the right to -

- (a) express his views freely; and
- (b) participate in decisions, in all matters which affect his welfare and the views of the child being given due weight in accordance with his age and maturity.

(2) A child shall, for the purpose of freely expressing his opportunity to be heard, either directly, or through a representative or an appropriate body, in a judicial and administrative proceeding affecting him, in a manner consistent with its procedural rules.

Children
to be treated
equally.

19. Boys and girls shall be protected from negative traditions and norms that create unequal access to resources, unequal social status and unequal opportunities for their development.

20. (1) A child shall have a right to legal representation at a Juvenile Court. Child representation.

(2) A child shall have a right to give an account and express an opinion at a Juvenile Court.

(3) A child's right to privacy shall be respected throughout the proceedings at a Juvenile Court.

(4) The right of appeal shall be explained to the child, guardian and parents.

PART IV - PROTECTION FROM ABUSE, VIOLENCE, EXPLOITATION AND NEGLECT

21. (1) A child shall not be subjected to physical violence including torture, other cruel, inhuman or degrading treatment or punishment and cultural practices which dehumanises or is injurious to the physical and mental welfare of a child. Protection from all forms of physical violence.

(2) A correction of a child shall not be justifiable if -

- (a) it is unreasonable, in kind or in degree, according to the age, physical and mental condition of the child; and
- (b) the child is, by reason of tender age or otherwise, incapable of understanding the purpose of the correction.

22. (1) A person, court or other authority shall take appropriate measures to protect a child from all forms of psychological abuse including persistent attack on the child's sense of self through habitual and emotional humiliation, belittling, threats, public shaming and exposure to violence. Protection from psychological and emotional abuse.

(2) Protective measures under subsection (1), shall include -

- (a) effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child psychological and emotional abuse;
- (b) appropriate legislative, administrative, social and educational measures to protect the child from all forms of psychological and emotional abuse, while in the care of a parent, legal guardian or any other person who has the care of the child.

Protection
of child
from sexual
violence.

23. (1) A person, court or other authority shall protect a child from all forms of sexual exploitation, violence and sexual abuse and take appropriate national, bilateral and multilateral measures to prevent

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

(2) Protective measures under subsection (1), shall include -

- (a) effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child sexual abuse;

- (b) appropriate legislative, administrative, social and educational measures to protect the child from all forms of sexual abuse, while in the care of a parent, legal guardian or any other person who has the care of the child.

24. (1) The minimum age of marriage, of whatever kind, shall be 18 years. Protection from early or forced marriage and betrothal.

(2) A person shall not force a child -

- (a) to be betrothed;
- (b) to be the subject of a dowry transaction; or
- (c) to be married.

(3) Notwithstanding any law to the contrary, a certificate, licence or registration shall not be granted in respect of a marriage unless the Registrar or other responsible officer is satisfied that the parties to the marriage are of the age of maturity.

25. A person, court or other authority shall not involve a child in the participation of harmful practices including early marriage, child betrothal and female genital cutting. Protection from harmful practices.

26. A person, court or other authority shall take appropriate legislative, administrative, social and educational measures to protect the child from all forms of neglect or negligent treatment while in the care of his parent, legal guardian or any other person who has the care of the child. Protection from neglect.

27. A person, court or other authority shall take appropriate legislative, administrative, social and educational measures to protect the child from human trafficking including the recruitment, transportation, transfer, harbouring or receipt of a child, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, or the abuse of power or of a position of vulnerability or the giving or receiving of payment to obtain the consent of a person having control over a child. Protection from child trafficking.

Protection
from
exploitative
child labour.

28. (1) A person, court or other authority shall take appropriate legislative, administrative, social and educational measures to protect the child from all forms of exploitative labour.

(2) Exploitative labour under subsection (1), is labour that deprives a child of his health, education or development.

Protection
from
cyber-attack.

29. A person, court or other authority shall take appropriate legislative, administrative, social and educational measures to protect the child from all forms of cyber-attacks including cyber bullying, exploitation and abuse.

Protective
measures.

30. Protective measures under this Part shall, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up.

Police family
support units.

31. The Sierra Leone Police shall maintain at each police station, a Family Support Unit that shall have responsibility to deal with alleged juvenile offenders, child victims of domestic violence and to monitor proven child abusers.

Penalty for
contravention.

32. A person who contravenes a provision of this Part commits an offence and is liable, on conviction, to a fine not exceeding NLe. 50, 000 or to a term of imprisonment not less than 15 years or to both such fine and imprisonment.

PART V - EMPLOYMENT OF THE CHILD

Minimum
age for
full-time
employment.

33. The age of 15 years shall be the age at which the compulsory primary education of a child shall end, and also the minimum age for the engagement of a child in full-time employment.

Prohibition
of child
labour
at night.

34. (1) A person shall not employ a child in night work.

(2) Night work under subsection (1) constitutes work between the hours of 8 o'clock in the evening and 6 o'clock in the morning.

35. (1) The minimum age for the engagement of a child in light work shall be 13 years. Minimum age for light work.

(2) Light work under subsection (1) constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work.

36. (1) The engagement of a child in hazardous work is prohibited. Prohibition of hazardous child labour.

(2) Hazardous work under subsection (1) constitutes work which poses danger to the health, safety or morals of a person.

(3) Hazardous work includes-

- (a) going to sea;
- (b) mining and quarrying;
- (c) portorage 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 where a person may be exposed to immoral behaviour.

37. This Act applies to child apprentices in the informal sector. Act to apply apprenticeship in informal sector.

Minimum age for apprenticeship. 38. The minimum age at which a child may commence an apprenticeship at a workplace with an employer or with a craftsman is 15 years or after completion of basic education.

Responsibilities of craftsman. 39. The responsibilities 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 the ability, skill and knowledge of the craftsman and to the best ability of the apprentice or cause the apprentice to be trained in a trade under the supervision of the craftsman;
- (b) be responsible for any harm caused to the apprentice in the course of his training;
- (c) provide food for the apprentice unless otherwise agreed;
- (d) provide a safe and healthy environment for the apprentice;
- (e) provide for the moral training of the apprentice; and
- (f) protect the best interests of the apprentice generally.

Apprenticeship agreement. 40. (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 obtains in the specific trade but shall not include the performance of any induction ceremony which may conflict with the rights of the child contained in this Act.

(3) The agreement shall contain such matters as may be agreed between the parties and may include -

- (a) provision that the parent, guardian or relative 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 minimum national daily wage for his daily sustenance.

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

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

41. An apprentice shall diligently and faithfully obey and serve the craftsman and shall agree- Duties of apprentice.

- (a) that he will not absent himself from the apprenticeship without permission;
- (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.

42. (1) A child apprentice, at a workplace with an employer or craftsman shall, on completion of a period of apprenticeship be issued a certificate of release which shall indicate that he has completed his training. Certification of apprentice.

(2) An employer or craftsman who refuses to issue a certificate of release, without just cause, commits an offence and is liable on conviction to a fine not exceeding NLe. 2,000 or 6 months imprisonment or to both such fine and imprisonment.

Release of
apprentice.

43. The conditions for the release of an apprentice upon the completion of his training shall not be exploitative and shall be in accordance with guidelines prescribed by the Commissioner of Labour.

Registration
of children
in industrial
undertakings.

44. (1) An employer in an industrial undertaking shall keep a register of the children employed by him and of the dates of their births, if known, or of 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 the extraction of minerals from the earth;
- (b) undertakings in which articles are manufactured, altered, cleansed, repaired, ornamented, finished, adapted 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;
- (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.

Resolution
of disputes.

45. Disputes related to an apprenticeship agreement shall be referred to the district labour officer of the district concerned by the parties to the apprenticeship agreement or the apprentice.

46. (1) A person who contravenes this Part commits an offence and is liable, on conviction, to a fine not exceeding NLe. 10,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment. Offences.

(2) Notwithstanding subsection (1), a person who contravenes subsection (1) of section 44 commits an offence and is liable on conviction to a fine not exceeding NLe. 500.

PART VI - CHILD JUSTICE

47. (1) There shall be established in each district such number of Child Panels as the Local Council may consider necessary. Establishment and function of child panels.

(2) A Child Panel shall have non-judicial functions to mediate in civil matters which concern a child as may be prescribed under this Act.

48. (1) A Child Panel shall consist of the following persons in the relevant district - Composition of Child Panel.

- (a) a Chairman nominated by the local council from among the members of the council;
- (b) a member of a women's organisation;
- (c) a representative of the Chiefdom Councils in the district;
- (d) the district social welfare officer, who shall be the secretary;
- (e) a local council member, representing the Council;
- (f) 2 other citizens from the community of high moral character and proven integrity one of whom shall be an educationalist and the other a child.

(2) The members of a Child Panel shall be appointed by the Minister.

(3) The tenure of office of a Child Panel shall be the same as that of the local council.

Meetings of
Child Panel.

49. (1) A Child Panel shall meet as often as may be necessary but shall meet at least once every month.

(2) The quorum at any meeting of a Child Panel shall be 4 and in the absence of the chairman, a member elected by the members present from their number shall preside.

(3) An agreement made between the parties shall be recorded by the secretary to the Child Panel.

(4) A person with a significant interest in a matter before a Child Panel may be invited to attend and participate in its deliberations.

(5) A Child Panel shall permit a child to express his opinion and participate in any decision which affects the child's welfare commensurate with the level of understanding of the child concerned.

(6) Except as otherwise provided in this Part, a Child Panel shall regulate the procedure at its meetings.

Juvenile
court.

50. (1) There shall be established juvenile courts in every judicial district for the hearing and determination of a case relating to a child accused of committing an offence.

(2) The Chief Justice, having been satisfied as to the competence of the presiding officer, may designate a magistrate court to be a juvenile court and shall publish a notice of the designation in the Gazette.

(3) A juvenile court shall be presided over by a magistrate or a magistrate with over 5 years of experience.

(4) A presiding magistrate shall, before commencement of proceedings in a juvenile court, ensure that a probation officer of sufficient competence relevant to the requirements of this Act is present.

51. (1) A juvenile court shall have jurisdiction over children matters. Jurisdiction
of Juvenile
Court.

(2) Where in the course of proceedings in -

- (a) a magistrate court it appears to the court that the person charged or to whom the proceedings relate is under the age of 18 years, the court shall continue with the hearing and determination of the case in accordance with this Act, but nothing herein shall be deemed to make it necessary for the court to adjourn the case to comply with this section, and a court so sitting shall be a juvenile court for the purpose of this Act;
- (b) a juvenile court, it appears to the court that the person charged or to whom the proceedings relate, is of the age of 18 years or over, the court shall proceed with the hearing and determination of the case in accordance with the Criminal Procedure Act, 1965 but nothing herein shall be deemed to make it necessary for the court to adjourn the case into the public court room unless the court considers it desirable so to do and the court so constituted shall be a magistrate court.

(3) Where a child is brought before a juvenile court for an offence other than homicide or sexual penetration, the case shall be finally disposed of in such court.

(4) Where a matter involving a child is otherwise liable to be heard by the High Court, it shall be heard by the High Court, but the High Court shall comply with the requirements of this Act in respect of the child.

Separation
of children
from adults
on trial.

52. (1) Where a child and an adult are jointly charged of an offence, the child shall be tried separately from the adult, unless there are compelling reasons for joinder of the trial.

(2) An application for a joinder shall be directed to the court after notice to the child, parent, guardian or the appropriate adult and the legal representative of the child if available.

(3) Where the court grants an application for joinder of trials, the matter shall be transferred to the court, in which the adult is tried and the court shall afford the child concerned all the benefits conferred upon a child by this Act.

Jury trials
in children
matters.

53. (1) A child shall not be tried by jury except where the child is jointly tried with an adult.

(2) The court may, on application or on its own motion, order trial with assessors if it considers that trial with assessors is necessary taking into account the circumstances and facts of the case, and shall institute all measures necessary to protect the best interests of the child.

(3) Where a child is charged with an offence which is otherwise triable by jury and that he shall be tried without a jury in accordance with subsection (1), the child shall be tried in camera by a High Court Judge sitting without a jury.

Sitting and
attendance
in juvenile
court.

54. (1) A juvenile court shall sit either in a different building or room from that in which the ordinary sittings of the court are held, or on different days and time from those at which the ordinary sittings are held.

(2) Where a juvenile court sits in the same room, and on the same day as other courts, child cases shall take precedence.

(3) In a juvenile court proceeding relating to a child, no other person other than the members and officers of the court, the relatives of the accused child and the parties to the case before the court, their advocates and witnesses, probation officers, properly accredited legal aid workers, reporters of newspapers and other media agencies, shall, except by leave of the court, be allowed to attend.

55. (1) A person shall not publish any information that may lead to the identification of a child in any matter before a juvenile Court except with the permission of the juvenile Court.

Publication of information on child prohibited.

(2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding NLe. 2,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) A court may, in addition to ordering a company or organisation to pay a fine, order payment of compensation to the child who has been injured by the report.

(4) A complaint under this section may be lodged with the police or directly with the court by the injured child, or his parents, guardian, legal representative, community representatives or any other person on behalf of the child.

56. (1) Where a child is brought before a juvenile court, as an accused person or for care and protection proceedings, his parent or guardian may in any case, and, if such parent or guardian can be found and resides within a reasonable distance, shall be required to attend all stages of the proceedings, unless the juvenile court is satisfied that, it is -

Parent or guardian to attend court.

- (a) unreasonable or unnecessary to require the attendance of such parent or guardian; or
- (b) in the best interests of the child that the parent or guardian should not attend the proceedings.

(2) Where it is unreasonable or unnecessary to require the attendance of a parent or guardian or where the attendance of a parent or guardian will be prejudicial to the fair disposal of the case, taking into account the facts of the case, the court shall appoint an appropriate adult or social worker to attend the proceedings in place of the parent or guardian.

Association with adults whilst in custody.

57. An Officer in charge of a Remand home shall be responsible for preventing a child while being conveyed to and from court or whilst waiting before and after their attendance in court from association with adults charged with or convicted of an offence other than an offence with which the child is jointly charged or convicted.

Criminal procedure in Juvenile court.

58. (1) The court shall, when hearing a charge against a child,-

- (a) explain, in simple language the substance of the alleged offence; and
- (b) ask the child what he has to say in explanation thereof and whether he admits to the offence.

(2) A court, other than the High Court, shall, before which a child offender is found guilty of committing an offence, unless the best interests of the child require otherwise, remit the case to a juvenile court for sentencing.

(3) The juvenile court to which the case of a child is remitted under subsection (2) shall proceed with sentencing the child as if he had been tried and found guilty of the offence by that juvenile court.

Family Court.

59. There shall be a Family Court which shall exercise the jurisdiction conferred under this Act.

60. A Family Court shall be duly constituted by a panel consisting of a Chairman who shall be a Magistrate and not less than 2 and not more than 4 other members all of whom shall be appointed for their knowledge or experience in child rights issues, including a social welfare officer, appointed by the Chief Justice on the recommendation of the chief social welfare officer.

Composition
of Family
Court.

61. A Family Court shall have jurisdiction in matters concerning parentage, custody, access and maintenance of children and shall exercise such other powers as are conferred on it by this Act or under any other enactment.

Jurisdiction
of Family
Court.

62. (1) A Family Court shall sit either in a different building or room from that in which sittings of other courts are held, or on different days from those on which sittings of other courts are held and a person shall not be present at a sitting of a Family Court except-

Family Court
sittings.

- (a) members and officers of the Family Court;
- (b) parties to the case before the Family Court, their counsel, witnesses and other persons directly concerned in the case;
- (c) the parent or guardian of the child before the Family Court;
- (d) probation and social welfare officers; and
- (e) any other person whom the Family Court authorises to be present.

(2) The chairman of a Family Court shall arrange for its sitting as often as possible to dispose of cases expeditiously.

63. The proceedings at a Family Court shall be as informal as possible and shall be by enquiry and not by adversarial procedures.

Procedure
at Family
Court.

64. (1) A child shall have a right to legal representation at a Family Court.

Rights of
child at
Family Court.

(2) A child shall have a right to give an account and express an opinion at a Family Court.

(3) A child's right to privacy shall be respected throughout the proceedings at a Family Court.

(4) The right of appeal shall be explained to the child, guardian and parents.

Publication of
information
on child
prohibited.

65. (1) A person shall not publish any information that may lead to the identification of a child in any matter before a Family Court except with the permission of the Family Court.

(2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding NLe. 2,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Declaration
of goals of
child justice
system.

66. (1) The primary goals of the juvenile justice system, in addition to maintaining public safety, are skill development, habituation, rehabilitation, addressing treatment needs, and successful reintegration of youth into the community.

(2) The child justice system is intended to -

- (a) protect the interest of the child and further his well-being;
- (b) encourage reintegration, education and rehabilitation;
- (c) establish a system that is separate from the adult justice system;
- (d) ensure procedural protection and that the juvenile take's accountability, in proportion to all of the child's circumstances, offences and other factors;

- (e) ensure that the child has an opportunity to participate and be heard with parents or guardian involved.

67. (1) The age of criminal responsibility of a child shall be 14 years for all offences and the relevant age is the age at the time of the commission of the offence.

Age of
criminal
responsibility.

(2) A child who is below the minimum age of criminal responsibility at the time of the commission of an offence shall not be held responsible in criminal law proceedings.

(3) A child who is at or above the minimum age at the time of the commission of an offence but younger than 18 years can be formally charged and subjected to child justice procedures, in full compliance with the law.

(4) A child who is below age of criminal responsibility shall be taken through a restorative process for his rehabilitation and reconciliation with the victim.

(5) In the event of an offence relating to children who are close in age, a "close in age defence" shall apply once all conditions are met.

68. (1) The court shall, where a person is brought before a court otherwise than for the purpose of giving evidence and it appears to the court -

Determination
of age.

- (a) that he is a child, having made such inquiry as it considers necessary, record a finding as to the age of such person;
- (b) there is doubt as to the age of that person, require a probation officer to obtain relevant information as regards the age of the person and complete an age assessment form.

(2) The probation officer shall, if the age of a child brought before him under paragraph (b) of subsection (1) is not known, make an estimation of the age of that child based on the following age assessment guidelines-

- (a) a birth certificate;
- (b) a previous determination of age;
- (c) statements from a parent, guardian, or person likely to have direct knowledge of the age of the person;
- (d) a baptismal certificate or other religious records, school registration forms, school reports, under- five clinic cards and other information or document of a similar nature if relevant to establishing a probable age;
- (e) an estimation of age by a medical practitioner; and
- (f) a statement by the person who is claiming to be a child.

(3) Where a probation officer cannot estimate the age of a child or where the court is not satisfied with the estimated age provided by the probation officer, a benefit of doubt will be given to the person claiming to be a child.

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

(5) Where it appears to the Court that a person brought before it is of the age of 14 years or upwards, that person shall for the purpose of this Act be deemed not to be a child.

69. (1) The objectives of diversion are to -

Diversion
and support
services.

- (a) deal with a child outside the formal criminal justice system in appropriate cases;
- (b) encourage the child to be accountable for the harm caused by him;
- (c) meet the particular needs of the individual child;
- (d) promote the reintegration of the child into his family and community;
- (e) provide an opportunity to those affected by the harm to express their views on its impact on them;
- (f) prevent stigmatising the child and prevent the adverse consequences flowing from being subject to the criminal justice system;
- (g) reduce the potential for re-offending;
- (h) prevent the child from having a criminal record; and
- (i) promote the dignity and well-being of the child, and the development of his sense of self-worth and ability to contribute to society.

(2) Diversion may be considered during the trial in the child juvenile court and the police investigator, in consultation or advice of the prosecutor shall continuously explore the possibilities of avoiding a court process or conviction, through diversion and other measures in order to avoid a formal court process.

(3) Diversion options shall be offered from the earliest point of contact with the police, before a trial commences, and be available throughout the proceedings.

(4) Diversion shall be presented to the child as a way to suspend the formal court process, which will be terminated if the diversion programme is carried out in a satisfactory manner.

(5) In the process of offering diversion, the investigator or the prosecutor shall fully explain to the child in a language that the child understands, what diversion is, its implication and process.

(6) The child or parent or legal representative shall give consent before diversion commences.

Diversionary
programmes
and service
providers.

70. (1) The Minister shall be responsible for supporting the development of diversionary programmes and accrediting diversionary programmes and service providers.

(2) A diversion process can be facilitated by the Minister or an accredited institution which shall take full responsibility of the process and provide a written report to the prosecutor.

(3) In the process of diversion, all human rights and legal safeguards shall be fully respected and the child shall be given required assistance according to his needs.

(4) Measures to rehabilitate the child and reconcile him with his victim and reintegrate him in community, include -

- (a) a community service supervised by an appropriate authority;
- (b) restitution or compensation of victim by the offender's family or guardian,
- (c) an apology;
- (d) a warning; or

- (d) a compulsory attendance to therapy, school or a combination of 2 or more or any other referral measure considered to be in the best interest of the child given consideration to the victim and community concerns.

(5) The Director of Children's Affairs Directorate, of the Ministry, shall establish and maintain a constantly updated registry of measures which serve as a reference guide for both social workers, the Family Support Units and the courts.

71. A child in care or detention shall not be subject to corporal punishment.

Prohibition of corporal punishment in care or detention.

72. (1) Investigation of a child in conflict with the law shall be conducted by the Family Support Unit.

Pre-trial investigation processes.

(2) Notwithstanding subsection (1), investigation of a child in relation to felonious offences including murder, manslaughter, robbery with aggravation shall be referred to Criminal Investigation Department, by the Family Support Unit in accordance with prescribed procedures for referrals.

73. (1) Interview of a child in conflict with the law shall- Interview.

(a) be conducted in -

- (i) designated interview rooms at the Family Support Unit;
- (ii) a safe and private environment that can allow children to freely express themselves and have discussion with the investigator;
- (ii) the presence of a parent or guardian or any other legal representative approved by the child, unless it is not in the best interest of the child;

- (b) be confidential;
- (c) be treated as priority;
- (d) be in accordance with prescribed procedures for interview of children emphasizing how and what questions are asked and who is present for the interview
- (e) be investigative instead of interrogative and devoid of use of psychological tactics that would increase the stress and anxiety levels of the child or manipulate the child to confess.
- (f) not be unnecessarily prolonged or done repeatedly;
- (g) be done in a language and manner that the child can understand and where required, verbal or sign language or an interpreter shall be provided to assist the child.

(2) An investigation officer shall before the commencement of the interview,-

- (a) inform the child about the steps and purpose of the interview; and
- (b) ask the child to decide who shall be present,

(3) In an interview of a child in conflict with the law, safeguard measures shall be respected and the use of torture, force, violence, threat, deceit, false promises, intimidation or harsh treatment against a child during an investigation is prohibited.

Detention
and support
services.

74. (1) A child in conflict with the law shall not be deprived of his liberty unlawfully or arbitrarily.

(2) The arrest, detention or imprisonment of a child in conflict with the law shall -

- (a) be in conformity with the law;
- (b) be used only as a measure of last resort;
- (c) for the shortest appropriate period of time;
- (d) be subject to child friendly procedures for the arrest of a child in conflict with the law; and
- (e) prompt notification of his parents or care giver.

(3) A child in conflict with the law deprived of liberty shall -

- (a) be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his age;
- (b) be separated from adults unless it is considered in the child's best interest not to do so;
- (c) have the right to maintain contact with his family through correspondence and visits, save in exceptional circumstances;
- (d) hother appropriate assistance, as well as the right to challenge the legality of the deprivation of his liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action,

(4) A child suspected of committing an offence other than homicide or any other offence punishable with imprisonment for a term exceeding 7 years, shall be considered for diversion from criminal prosecution if -

- (a) the child admits responsibility for the alleged offence without undue influence;
- (b) the child understands his right to remain silent and to due process;
- (c) there is sufficient evidence to prosecute the child;
- (d) the diversion process and options have been explained to the child, his parent, guardian or appropriate adult and such child or his parent, guardian or appropriate adult, if such person is available, consents to the diversion process; and
- (e) the offence is minor or the mitigating circumstances diminish the seriousness of the offence.

(5) Where the conditions in subsection 1 are met, a police or State Counsel may apply any or a combination of several of the following diversion options -

- (a) a formal caution or warning administered by the prosecutor with or without conditions;
- (a) an unconditional oral or written apology to a specified person or persons or institution;
- (b) participation in a restorative justice meeting with the victim for reconciliation or apology;
- (c) reparation in cash or kind to the victim for emotional harm incurred;
- (d) restitution by paying compensation for reasonable expenses incurred by the victim;
- (e) attending a mentorship programme;

- (f) performing a voluntary activity to provide a service to the community;
- (g) provision of some service or benefit to a specified victim or victims;
- (h) receiving religious instruction;
- (i) attending a life skills programme;
- (j) referral to an addiction treatment or related programme;
- (k) referral to a formal or community based counselling programme that might help the offender deal with personal issues including grief, hardship, trauma and stigmatisation.

(6) In selecting a specific diversion option for a particular child, consideration shall be given to -

- (a) the age and developmental needs of the child;
- (b) the cultural, religious and linguistic background of the child;
- (c) the educational level and cognitive ability of the child;
- (d) the domestic and environmental circumstances of the child;
- (e) the proportionality of the offence to the option recommended or selected;
- (f) the interest of society;
- (g) whether the child is a repeat offender;
- (h) the availability of an appropriate diversion option to be applied to the child;
- (i) any other peculiar circumstances relating to the child.

(7) The Minister shall appoint and regulate institutions and individuals and community actors, that devise and provide diversion options in a predetermined and regular basis, who shall supervise and support children to comply with diversion conditions.

(8) The Minister shall set out procedures for diversion consistent with this Act.

Detention
of child
awaiting trial.

75. The police shall, where a child in conflict with the law is detained, awaiting trial and before sentencing, employ mechanisms for the swift release of the child to his parents, care givers or any other appropriate adult, including -

- (a) prompt taking of statements;
- (b) release of child;
- (c) taking the child before a Court, without delay;
- (d) placing of the child in the care of an adult;
- (e) ensure that a child, with both visible and non-visible disabilities, understands the offence for which he is charged.

Trial
procedure.

76. (1) At the hearing in a trial of a child in conflict with the law, the "right to be heard" include -

- (a) protecting of the child's name and identity from being published;
- (b) emphasising the right of the child to be presumed innocent and not to be referred to as offender, until proven guilty; and
- (c) guaranteeing, at every stage of the proceedings, the right of the child to be heard, freely with the support of a legal practitioner.

(2) At the hearing in a trial of a child in conflict with the law, the "right to legal counsel" include -

- (a) the right to be represented by counsel shall be stated in a-
 - (i) summons issued to the child;
 - (ii) warrant to arrest the child;
 - (iii) recognisance entered into by the child before a police officer; or
 - (iv) notice of a review of a sentence given to the child;
- (b) where legal aid is not available, the cost of legal representation shall be defrayed by the Court;
- (c) that a child, with both visible and non-visible disabilities, understands the offence for which he is charged and that there is an option to plead guilty or not guilty.
- (d) that the matter shall be determined without delay;
- (e) the right to bail and the application of the Free Bail Policy for children in conflict with the law.
- (f) that the parent or care giver shall be present in Court.

77. (1) A summons used to bring a child in conflict with the law before a court, shall - Summons.

- (a) be issued by a juvenile court;
- (b) be served on the child, parent, guardian, or the next of kin of the child; and,

- (c) be served on a day and time that ensures due consideration of the best interests of the child.

(2) A private prosecutor wishing to prosecute a child in conflict with the law for an alleged offence through private criminal summons shall obtain the approval of the Director of Public Prosecution whose decision shall be guided by the principle of the best interest of the child.

Sentencing.

78. (1) A child in conflict with the law shall not be subjected to capital punishment or life imprisonment without possibility of release.

(2) A conviction of child in conflict with the law shall not be recorded.

(3) The Court shall, where a child in conflict with the law, is found guilty of an offence, order, in lieu of sentencing of the child -

- (a) committal to the care of a relative or other adult;
- (b) reprimand and discharge;
- (c) restitution
- (d) community service;
- (e) committal to residential or open facilities, subject to such conditions of supervision and probation as the Court may require

Review of sentences.

79. The Court may, review non-custodial sentence of child in conflict with the law where the child has failed to comply with the initial sentence and conditions set out therein.

Rehabilitation and reintegration.

80. (1) A child in conflict with the law who is in custody shall have a right to -

- (a) regular contact with his parents; and

- (b) formal education or skill training guided by special curriculum for children in conflict with the law in remand homes and approved schools.

(2) A child who is awaiting trial or awaiting release shall have a right to temporary facilities or some form of care environment.

PART VII - CHILDREN IN NEED OF SPECIAL CARE AND PROTECTION

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

Children in need of care and protection.

- (a) is an orphan or is deserted by his parents and relatives;
- (b) has been neglected or ill-treated by the person who has the care and custody of the child;
- (c) has a parent or guardian who does not exercise proper guardianship;
- (d) is 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 a migrant, unaccompanied, refugee and displaced, born in or with his parents in correctional centre and at risk of losing parental care;
- (g) is found 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 signing, playing, performing, offering anything for sale or otherwise;
- (i) frequents the company of any reputed thief or reputed prostitute;
- (j) 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;
- (k) is a person in relation to whom an offence has been committed or attempted under the Anti- Human Trafficking Act, 2005;
- (l) 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;
- (m) is otherwise exposed to moral or physical danger;
- (n) is a child with disability or is in a street situation.

(2) A child shall not be considered to come within the scope of paragraphs (i) and (j) of subsection (1) if the only reputed prostitute that the child associates with is his mother and if it is proved that she exercises proper guardianship and care to protect the child from corrupt influences.

Persons to
report child
abuse and
protection
cases.

82. A person with information on -

- (a) child abuse; or
- (b) a child in need of care and protection, shall report the matter to the local council.

83. (1) A Family Court may issue a care order to a local council on application by a probation officer or social welfare officer under section 88. Care order of the Family Court.

(2) The care order shall remove the child from the situation where he is suffering or likely to suffer significant harm and shall transfer the parental rights to the Council.

(3) A probation officer, social services officer, social worker or protection officer shall take custody of the child and shall determine the most suitable place for the child which may be -

- (a) an approved residential home;
- (b) with an approved fit person; or
- (c) at the home of a parent, guardian or relative.

(4) The maximum duration of a care order shall be 3 years or until the child attains 18 years whichever is earlier and the Family Court may make an interim order or may vary the order

(5) The Family 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 Family Court shall not designate the manager of an institution as an approved fit person to whom the care of a child can be entrusted unless the institution is approved and licensed by a local council.

84. (1) A Family Court may issue a supervision order to a local council on an application by a probation officer or social welfare officer under section 88. Supervision order of Family Court.

(2) The supervision order shall be aimed at 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 order shall place a child under the supervision of the probation officer or social welfare officer while he 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 18 years, whichever is earlier.

Duties of
social
workers,
social
services and
protection
officers.

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

- (a) provide case management services to the child linking him to services for his recovery, rehabilitation and reintegration;
- (b) take reasonable steps to ensure the child is not subjected to harm; and
- (c) hold regular reviews to plan for the future of the child.

Home visits.

86. A probation officer or social welfare officer shall be permitted by a parent, guardian or relative of the child to visit the child while he is with any of them.

General
provisions
on orders.

87. (1) A child who contravenes an order from the Family Court and runs away may be apprehended without warrant by the police returned to the place of the care or supervision order.

(2) The Family Court may make another order where the child has run away in order to place the child elsewhere if the approved fit person is not willing to take the child.

Discharge
of orders.

88. A care or supervision order may be discharged in the best interests of the child by the Family Court on the application of -

- (a) the child;
- (b) a probation officer;
- (c) a social welfare officer; or
- (d) a parent, guardian or relative of the child.

89. A child under a care order whose parent, guardian or relative does not show an interest in the welfare of the child within a period stipulated by the Family Court may be put up for adoption. Care order and adoption.

PART VIII - PARENTAGE, PARENTAL RESPONSIBILITIES, CARE, CUSTODY AND ACCESS

90. (1) A parent shall, in relation to other persons, have, as regards his child, the right, subject to the short-and long-term best interests of the child - Parental rights.

- (a) to have the child live with him or regulate the child's residence;
- (b) to control and guide the child's upbringing;
- (c) to maintain personal relations, if the child is not living with him;
- (d) to act as the child's legal representative regarding the child's property and other interests;
- (e) to appoint or revoke a guardian for the child, subject to the approval of a court;
- (f) to have access to acceptable parenting programmes;
- (g) to participate in Ward Child Welfare Committee, court, and other proceedings related to the parent's child.

(2) Notwithstanding subsection (1), a parent shall have the right to apply to a court to prevent a co-parent from asserting his rights.

(3) A court shall grant an application referred to in subsection (2), if satisfied that the exercise of any parental rights by the respondent may harm the best interests of the child.

(4) A parent bearing disproportionate burden in his care of his child due to the neglect of parental duties by a co-parent may apply for financial or other relief.

Confirmation
of parentage.

91. (1) The following persons may apply to a Family Court for an 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 probation officer;
- (e) a social welfare officer; or
- (f) any other interested person.

(2) The application to a Family Court under subsection (1) may be made -

- (a) before the child is born; or
- (b) within 3 years after the death of the father or mother of a child; or
- (c) before a child is 18 years of age or after the child has attained that age with special leave of the Family Court.

Evidence of
parentage.

92. The following shall be considered by a Family Court as evidence of parentage -

- (a) the name of the parent entered in the register of births;
- (b) performance of customary ceremony by the father of the child;
- (c) refusal by the parent to submit to a medical test;
- (d) published acknowledgement of parentage; and
- (e) any other matter that the Family Court considers relevant.

93. A Family Court may order the alleged parent to submit to a medical test and the Court shall on the basis of the evidence before it make such order as it considers appropriate.

Medical tests.

94. (1) A parent shall ensure the welfare, of the child including making important decisions for him and generally providing a safe and nurturing environment for growth and development of the child.

Parental duties and responsibilities.

(2) A parents holds, as a means of ensuring the well-being and upbringing of the child, established legal and inherent privileges in relation to his child, including -

- (a) the authority to make decisions concerning the child's upbringing, that they believe are in the best interests of his child; choices about education, healthcare, religious upbringing, and other important matters that impact the child's life;
- (b) the right to physical custody of the child; having the child live with him and providing for his day-to-day needs, such as food, shelter, clothing, and emotional support;

- (c) even if one parent has primary physical custody, the other parent usually retains the right to visitation or access as this ensures that both parents can maintain a meaningful relationship with the child, even if they don't live together;
- (d) the responsibility to protect and care for the child's safety and well-being; creating a safe environment, addressing the emotional and physical needs, and shielding the child from harm or neglect;
- (e) the right to be legally recognised and protected by law as performing a parent's role in the life of the child, considered essential for the child's healthy development.

Duty to instill
cultural and
national
pride.

95. A parent shall direct the education of his child to the development of respect for the cultural identity and the national values of the country in which the child is living, the country from which he may originate, and the child shall not be denied the right to enjoy his own culture, to profess and practise his own religion or to use his own language.

Responsibility
of foster
parent.

96. A foster parent shall ensure the welfare, of a foster child including-

- (a) providing a safe home where the foster child is looked after and is happy and comfortable;
- (b) providing love and support that will help the foster child to settle and eventually grow and mature;
- (c) attending to the education of the foster child, if of age, enrol him in school and take active interest in the education of the foster child;
- (d) attending to the health needs of the foster child by ensuring that he has access to medical care when needed;

- (e) managing the behaviour of the foster child by being nurturing, patient and understanding and having a system in place to handle difficult behaviour to help the child deal with their situation;
- (f) encouraging contact with family by promoting healthy contact between the foster child and his family and employ the social service care plan to ensure contact is maintained and managed appropriately;
- (g) attending meetings and being a team player by working together with other social service providers to manage all aspects of the fostering journey of the child in order to ensure that the foster child is receiving the correct care for his unique situation;
- (h) continuing to improve fostering skills through ongoing training and support including specialist training events.

97. (1) A guardian shall provide care and protection to a child, Guardianship.
when the parents of the child are incapable of providing care and protection themselves, either temporarily or permanently.

(2) A temporary guardian shall provide interim care for the child while the parents are away and a permanent guardian shall provide care and protection to the child until he is 18 years of age.

98. A parent, family member or any person who is raising a Application
for custody.
child may apply to a Family Court for custody of the child.

99. A parent, family or any person who has been caring for a Application
for access.
child may apply to a Family Court for periodic access to the child.

Consideration
for custody.

100. (1) A Family Court shall consider the best interests of the child and the importance of a young child being with his mother when making an order for custody or access.

(2) Subject to subsection (1), a Family Court shall also consider -

- (a) the age of the child;
- (b) that it is preferable for a child to be with his parents except if his rights 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 Family Court considers relevant.

Unlawful
removal of
child.

101. A person shall not unlawfully remove a child from another person who has the lawful custody of the child.

Duty to
maintain
a child.

102. (1) A parent or any other person who is legally liable to maintain a child or contribute towards the maintenance of a child is under a duty to supply the necessities of health, life, education and reasonable shelter for the child.

(2) For the purposes of subsection (1), "education" means basic education.

(3) Subject to this Act, the father of the child, whether it is legitimate or not, is legally liable to maintain the child.

103. (1) The following persons who have custody of a child may apply to a Family Court for a Maintenance Order for the child - Application for Maintenance Order.

- (a) a parent of the child;
- (b) the guardian of the child; or
- (c) any other person.

(2) The following may also apply to a Family Court for a Maintenance Order -

- (a) the child by his next friend;
- (b) a probation officer;
- (c) social worker;
- (d) social services officer; or
- (e) protection officer.

(3) The application for maintenance may be made against any person who is legally liable to maintain the child or contribute towards the maintenance of the child.

104. A Family Court shall consider the following when making a Maintenance Order - Consideration for 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 legally liable to maintain the child;
- (c) the financial responsibility of the person legally liable with respect to the maintenance of other children;
- (d) the cost of living in the area where the child is resident;
- (e) the rights of the child under this Act; and
- (f) any other matter which a Family Court considers relevant.

Request for
social
enquiry
report.

105. (1) A Family Court may request that a probation officer or social welfare officer should prepare a social enquiry report on the issue of maintenance before it for consideration.

(2) A Family Court shall, in making any order consider the social enquiry report prepared by the probation officer or social welfare officer.

Form of
Maintenance
Orders.

106. (1) A Family Court may award maintenance to the mother of a child whether married to the father or not, where the father has been identified, and the maintenance shall include the following -

- (a) medical expenses for the duration of her pregnancy, delivery or death of the child;
- (b) a periodic allowance for the maintenance of the mother during her period of pregnancy and for a further period of 9 months after the delivery of the child; and
- (c) the payment of a reasonable sum to be determined by the Family Court for the continued education of the mother if she is a child herself.

(2) A Family Court may order a periodic payment or lump sum payment for the maintenance of a child and the earnings or property of the person legally liable to maintain the child may be attached.

(3) The attachment order shall be applicable in all cases of failure to pay maintenance.

(4) When considering an application for maintenance, a Family Court may make a Maintenance Order which it considers reasonable for any child in the household.

(5) A Family Court may make an order for arrears of maintenance against any person legally liable to pay maintenance.

107. (1) Any person who has custody of a child who is the subject of a Maintenance Order is entitled to receive and administer the Maintenance Order of the Family Court.

Persons entitled to Maintenance Orders.

(2) If the parent, guardian or whoever has custody of the child should cease to be a fit person, the Family 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 originally appointed by the Family Court.

108. (1) A Maintenance Order made by a Family Court shall expire when the child attains the age of 18 years or dies before that age.

Duration of Order.

(2) A Maintenance Order shall lapse before the child attains the age of 18 years, if before that age the child is gainfully employed.

109. (1) A Family Court may, notwithstanding section 108, continue a Maintenance Order after a child has attained 18 years, if the child is engaged in a course of continuing education or training after that age.

Continuation of Maintenance Orders in certain cases.

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

110. A Family Court may, if satisfied, vary or discharge a Maintenance Order on the application of a parent, the person who has the custody of the child or young person or any other person legally liable to maintain the child.

Variation or discharge of orders.

111. An action may be brought by any person to enforce a Maintenance Order 30 days after the order is made or due.

Enforcement of Order.

112. A non-custodial parent in respect of whom an application is made to a Family Court for an order of parentage, custody, access or maintenance under this Part shall have access to the child who is the subject of the order.

Non-custodial parent to have access to child.

Avoidance of multiple maintenance applications.

113. The provisions of this Part are to be read as one with the Matrimonial Causes Act, (Cap 102) and no action may be brought for a Maintenance Order if an application for maintenance is pending in matrimonial proceedings under that Act.

Offences under this Part.

114. A person who -

- (a) unlawfully removes a child from another person who has lawful custody of the child contrary to section 112; or
- (b) fails to supply the necessities of health, life, education and reasonable shelter for a child when legally liable to do so contrary to section 102; or
- (c) brings an action for maintenance under this Part while an application for maintenance is pending in matrimonial proceedings,

commits an offence and is liable, on conviction, to a fine not exceeding NLe. 5,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Procedure for application.

115. The forms to be used and the procedure for this Part shall be provided for by regulations made under this Act.

Waiver of fees.

116. The Chief Justice may, by statutory instrument, waive part or all of the filing fees or other fees payable for an application under this Part.

PART IX - ALTERNATIVE CARE - ADOPTION AND DAYCARE

Guiding principles for provision of alternative care.

117. (1) Decisions concerning alternative care shall take full account of the desirability, in principle, of maintaining the child as close as possible to his habitual place of residence, in order to facilitate contact and potential reintegration with his family and to minimise disruption of his educational, cultural and social life.

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(2) Decisions regarding children in alternative care, including those in informal care, shall have due regard for the importance of ensuring children a stable home and of meeting their basic need for safe and continuous attachment to their caregivers, with permanency generally being a key goal.

(3) A child in alternative care shall be treated with dignity and respect at all times and must benefit from effective protection from abuse, neglect and all forms of exploitation, whether on the part of care providers, peers or third parties, in whatever care setting they may find themselves.

(4) Removal of a child from the care of the family into alternative care shall -

- (a) be taken as a measure of last resort and whenever possible, be temporary and for the shortest possible duration;
- (b) be regularly reviewed and the child's return to parental care, once the original causes of removal have been resolved or have disappeared, should be in the best interests of the child.

(5) Financial and material poverty, or conditions directly and uniquely imputable to such poverty, shall never be the only justification for -

- (a) the removal of a child from parental care;
- (b) receiving a child into alternative care; or
- (c) preventing the reintegration of a child, but shall be seen as a signal for the need to provide appropriate support to the family.

(6) Attention shall be paid to promoting and safeguarding all other rights of special pertinence to the situation of children without parental care, including, access to education, health and other basic services, the right to identity, freedom of religion or belief, language and protection of property and inheritance rights.

(7) Siblings with existing bonds shall, in principle not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child and in any case, every effort shall be made to enable siblings to maintain contact with each other, unless this is against their wishes or interests.

(8) Recognising that, in most countries, the majority of children without parental care are looked after informally by relatives or others, the Minister shall devise appropriate means, to ensure their welfare and protection while in such informal care arrangements, with due respect for cultural, economic, gender and religious differences and practices that do not conflict with the rights and best interests of the child.

(9) A child shall not be without the support and protection of a legal guardian or other recognised responsible adult or competent public body at any time.

(10) The provision of alternative care shall never be undertaken with a prime purpose of furthering the political, religious or economic goals of the providers.

(11) The use of residential care shall be limited to cases where such a setting is specifically appropriate, necessary and constructive for the individual child concerned and in his best interests.

(12) Alternative care for young children, especially those under the age of 3 years, shall be provided in family-based settings, except warranted in order to prevent the separation of siblings and in cases where the placement is of an emergency nature or is for a predetermined and very limited duration, it shall include planned family reintegration or other appropriate long-term care solution as its outcome.

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(13) The Minister shall establish care standards to ensure the quality and conditions that are conducive to the child's development, such as individualised and small-group care, and evaluate existing facilities against these standards and decisions regarding the establishment of, or permission to establish, new residential care facilities, whether public or private, should take full account of this deinstitutionalisation objective and strategy.

118. (1) The Minister shall devise a system and train staff to assess and match the needs of a child with the abilities and resources of potential foster carer and to prepare all concerned for placement. Guidance for fosterage of child.

(2) A pool of accredited foster carers shall be identified in each locality who can provide children with care and protection while maintaining ties to family, community and cultural group.

(3) Special preparation, support and counselling services for foster carers shall be developed and made available to carers at regular intervals, before, during and after the placement.

(4) A carer shall have, within fostering agencies and other systems involved with children without parental care, the opportunity to make his voice heard and to influence policy.

(5) The establishment of associations of foster carers that can provide important mutual support and contribute to practice and policy development shall be encouraged.

119. A person who is above the age of 21 years, of high moral character and proven integrity, may be a foster- parent to a child. Person who can foster a child.

120. (1) Where a child who is in need of care and protection, a social services officer, social worker and protection officer may place the child with a foster parent who is willing to undertake the care and maintenance of the child. Conditions for foster care placement.

(2) A foster parent in whose care a child who is in need of care and protection 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.

Application
for foster
care
placement.

121. (1) A person who is desirous of fostering a child who is in need of care and protection shall complete the application form specified in the Schedule and submit it to a social services officer, social worker and protection officer, who shall obtain the approval of the court for placement of the child with the applicant.

(2) Notwithstanding subsection (1), a relative of a child who is in need of care and protection may foster the child without submitting an application to a social services officer, social worker and protection officer for approval of the court.

Monitoring
foster care
placement.

122. (1) A foster parent shall be accountable to the Ministry, which shall ensure, inter alia, frequent inspections comprising both scheduled and unannounced visits, involving discussion with and observation of the foster parent and the child.

(2) Inspections under subsection (1) shall be conducted by a social services officer, social worker and protection officer, who shall be responsible to consult in conditions of privacy with the child in placement, visiting the care settings in which he lives and undertaking investigations into alleged situation of violation of the child's rights in those settings, on complaint or on its own initiative.

Reunification
of child in
foster care
with
biological
parents or
guardians.

123. (1) The Reunification with biological parents or guardian shall be the desired outcome for children in foster care and when a child is taken into care, a reunification plan shall be created and worked towards for the length of time that the child is in care.

(2) The reunification process generally consists of the following steps, which are designed to make sure a foster child is safe and happy when he return to their birth family as a child's best interests are always at the forefront of decisions made with regard to reunification -

- (a) assessment process - a foster child's needs shall be assessed by the social worker to determine whether reunification with the birth parents is viable and in your foster child's best interests;
- (b) care plan - the social worker and parents shall develop a care plan that outlines the conditions needed for reunification to take place and also help prepare the foster child for a potential reunification with their birth parents and which shall be reviewed and updated regularly;
- (c) support for birth parents - where reunification is viable, the birth parents will work with social services to help them to prepare for reunification;
- (d) support for your foster child - a foster parent, shall work with the child to maintain a relationship with his birth family in order to prepare him for reunification.
- (e) monitoring and reviewing reunification - a social worker shall, where a foster child has been reunited with his birth family, monitor the situation to make sure that the child is safe, and the birth parents are able to meet their responsibilities.

124. Subject to the Adoption Act, 1989, a person who has resided with and taken care of a child as a foster parent for not less than a continuous period of 6 months, may apply to adopt a child if he is at least 30 years of age.

Adoption application by foster parent.

125. (1) The Government may establish an approved residential home referred to in this Act as home for the care of children in such areas as the Minister may determine.

Approval of a residential care home for children.

(2) A person, including a non-governmental organisation may also establish and operate a home for the care of children, subject to the approval of the local council.

(3) An application for the approval of a home shall be submitted to the local council.

(4) The local council shall cause the home to be inspected and if the home meets the required standard it shall be approved by notice published in the Gazette.

(5) Upon approval by the local council, the home shall obtain a licence to operate issued by the council after payment of the prescribed fee but this provision shall not apply to a government home.

(6) A non-governmental home for the care of children in existence at the commencement of this Act shall apply to the local council for approval and the issue of a licence within a period of six months from the commencement of this Act.

(7) An applicant under subsection (6) who fails to obtain a licence after the 6 months referred to therein, shall cease the operation of the home concerned.

Admission of
child into
approved
residential
home for
children.

126. (1) A child may be admitted to a home for the care of children-

- (a) pending the determination by a Family Court of a protection order under this Act;
- (b) on the recommendation of a probation officer, social services officer, social worker or protection officer who has determined that the approved home for the care of children is the most suitable place for the child; or
- (c) if the child is an orphan and family care and fosterage are not available.

(2) A protection order issued by the Family Court under paragraph (a) of subsection (1), shall determine the duration of stay of a child placed in a residential care home for children.

(3) If a home for the care of children fails to maintain the required standard, its licence to operate may be cancelled or suspended by the local council and alternative arrangements shall be made by the council for the child in the home.

127. (1) While a child is in a home for the care of children, the staff of the home for the care of children shall assume parental responsibility for the child and ensure that the rights of the child under this Act are protected.

Parental responsibility of staff in residential home for children.

(2) Notwithstanding subsection (1) the parents, guardian or relatives of a child in a home for the care of children shall supplement the efforts of the home to safeguard and promote the welfare of the child by visiting the child and otherwise protecting the interests of the child.

(3) Parental responsibility of a child in a home for the care of children shall include an application to a Family Court to protect the best interests of the child where necessary.

128. (1) A Family Court may order that the parent, guardian or relative of a child in a home for the care of children shall contribute towards the maintenance of the child in the home.

Court may order parent or guardian to contribute to maintenance of child in a residential home for children.

(2) Any amount to be contributed shall be reasonable and may be varied by the Family Court if there is a change in circumstances of the contributor.

129. A local council shall monitor homes within its area of authority.

Local councils to monitor residential homes for children.

Power of Minister to give directives to residential homes for children.

130. The Minister may give such orders and directions to a home for the care of children as may be expedient in the public interest.

Inspection of residential home for children.

131. (1) The council shall inspect the premises, books, accounts and other records of a residential home for children at least once in every 6 months.

(2) The council shall, where the inspection reveals that the residential home for children is not being managed efficiently in the best interests of the children, suspend the permit and the owner or operator shall be ordered to make good a default within a stipulated time.

(3) If the owner or operator fails to make good the default within the stipulated time, the permit shall be cancelled.

Reunification of children in residential homes for children.

132. (1) It shall be the responsibility of the staff of a the care of children in of children, the probation officer, social welfare officer and any other person homes to assist a child resident in a home for the care of children to become for reunited with its parents, guardian or relatives.

(2) After a child has been returned to his family home from a home for the care of children, the probation officer and social welfare officer shall keep regular contact with the child and his family to ensure that the best interests of the child are sustained.

(3) Where a child is unable to return to his parents or to go to foster-parents or has no parent or foster-parent, he shall be encouraged and assisted by the home for the care of children and the probation officer and social welfare officer to become independent and self-reliant.

133. (1) Subject to this Act, a child in a home for the care of children may be put up for adoption if it is in the best interests of the child.

Adoption of child in residential homes for children.

(2) The decision for the adoption of a child in a home for the care of children shall be taken by the local council after consultation with the management of the home.

134. The Minister may by statutory instrument make regulations for homes for the care of children.

Regulations on residential home for children.

135. (1) Subject to this Act, a child in a non-residential care setting may be put up for adoption if it is in the best interests of the child.

Adoption of child in non-residential care settings.

(2) For the purpose of the adoption of a child in non-residential care setting, the Director of Children's Affairs Directorate, of the Ministry, shall prepare a report to assist the Court on an application for an adoption order to determine whether a person who is not a parent of the child has any rights or obligations in respect of the child and whether that person's consent ought to be obtained for the adoption order.

136. (1) The penalty for contravention in respect of the rights of the child and parental duty in section 94 shall apply to a person in a home for the care of children who fails to uphold the rights of the child.

Offences.

(2) A person who -

- (a) operates a home for the care of children without a licence issued by a local council; or
- (b) continues to operate a home for the care of children in contravention of this Act; or
- (c) obstructs or hinders a person conducting an inspection under section 131,

commits an offence and is liable, on conviction to a fine not exceeding NLe. 5, 000 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment and in the case of a continuing offence, to a further fine not exceeding NLe50,000 for each day on which the offence continues.

Permit to
operate day-
care centre.

137. (1) Subject to this section, no person shall operate a day care centre except under a permit issued by the local council.

(2) An application for a permit to operate a day-care centre shall be submitted by the applicant to the local council.

(3) The application shall be accompanied by such fees as may be prescribed.

(4) The council shall inspect the proposed day-care centre and if it meets the required standard it shall approve the application and grant a permit upon payment of the fee for the permit as prescribed.

(5) Any day-care centre in operation without a permit granted by a council shall be closed on 14 days' notice to the owner or operator by the council.

Inspection of
day-care
centres.

138. (1) The council shall inspect the premises, books, accounts and other records of a day-care centre at least once in every 6 months.

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

(3) If the owner or operator fails to make good the default within the stipulated time, the permit shall be cancelled.

Bye-laws and
guidelines.

139. A local council shall make such bye-laws as it may determine for the operation of day-care centres within its district.

140. (1) The Minister may, in addition to the bye-laws, issue such policy directives as may be necessary for the operation of day care centres. Policy directives.

(2) A policy directive under subsection (1) shall be issued for administration by the local council.

141. (1) A person who owns or operates a day-care centre immediately before the commencement of this Act who intends to continue to operate the day-care centre shall apply to the local council for a permit within 6 months of the commencement of this Act. Existing operators.

(2) An applicant under subsection (1) who fails to obtain a licence after the 6 months referred to therein, shall cease the operation of the day-care centre concerned.

142. A person who -

- (a) operates a day-care centre without permit issued by the local council; or
- (b) continues to operate a day-care centre in contravention of this Act; or
- (c) obstruct or hinders a person conducting an inspection under section 138,

General
offence
and penalty.

commits an offence and is liable, on conviction to a fine not exceeding NLe. 2,000 or to a term of imprisonment not exceeding one year or to both and in the case of continuing offence to a further fine not exceeding NLe. 5,000 for each day on which the offence continues.

PART X - NATIONAL COMMISSION FOR CHILDREN

143. (1) There is hereby established a body to be known as the National Commission for Children. Establishment
of
Commission.

(2) The Commission shall be body corporate having perpetual succession and capable of acquiring holding and disposing of any property, whether movable or immovable and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Commission shall have a common seal the use of which shall be authenticated by the signatures of the Chairman and one other member of the Commission designated in that behalf by the Commission.

Independence
of
Commission.

144. Except as otherwise provided in this Act, the Commission shall not be subject to the direction or control of any person or authority in the performance of its functions.

Commissioner
and Deputy
Commissioner.

145. The Commission shall have a Commissioner and Deputy Commissioner who shall, on the recommendation of the Minister, be appointed by the President, from amongst persons with proven knowledge and experience in child rights matters, subject to the approval of Parliament.

Composition
of
Commission.

146. (1) The Commission shall consist of -

- (a) the Commissioner, as Chairman;
- (b) the Deputy Commissioner, as Vice Chairman;
and
- (c) 3 other members, at least 2 of whom shall be women, appointed by the President, subject to the approval of Parliament.

(2) The members of the Commission shall be appointed from amongst persons of -

- (a) high moral probity who have so distinguished themselves in their respective fields as to command the respect of the public;
- (b) proven record of respect for, and interest in rights and welfare of children;

- (c) well-versed in the rights contained in the Constitution of Sierra Leone and other statutes, the Convention of the Rights of a Child, the Africa Charter on the Rights and welfare of Children Chapter III of the Constitution and familiar with the international conventions, treaties and other agreements relating to Children's rights.

147. (1) A member of the Commission shall hold office for a term of 3 years and shall be eligible for reappointment.

Tenure of
members of
Commission.

(2) A person shall cease to be a member of the Commission on any of the following grounds -

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted of an offence involving fraud or dishonesty;
- (e) if he fails to attend three consecutive meetings of the Commission without reasonable cause;
- (f) if he resigns his office by written notice to the President.

(3) Section 137 of the Constitution, with the necessary modifications, shall apply to the proof of any misconduct referred to in paragraph (b) of subsection (2).

148. The Chairman and members of the Commission other than the Commissioner and Deputy Commissioner shall be paid such remuneration and allowances as Parliament may determine and such remuneration and allowances shall not be altered to their disadvantage during their tenure of office.

Remuneration
and
allowances
of members.

Proceedings
of
Commission.

149. (1) The Commission shall meet for the dispatch of its business at least once every month.

(2) The Chairman shall preside at every meeting of the Commission, and in his absence, the members present shall appoint a member from among themselves to preside at that meeting.

(3) A majority of members of the Commission may, by notice in writing signed by them, request the Chairman to summon a special meeting of the Commission for such purposes as may be stated in the notice.

(4) The Chairman or, in his absence, the member appointed to act on his behalf shall summon a special meeting within 5 days of his receipt of the notice referred to in subsection (3).

(5) The quorum at a meeting of the Commission shall be 6.

(6) A member of the Commission shall have one vote, where there is an equality of votes, the Chairman or other person presiding shall have a casting vote.

(7) A proposal circulated among all members and agreed to in writing by a two-thirds majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Commission and shall be incorporated in the minutes of the next succeeding meeting of the Commission:

Provided that, if a member requires that such proposal be placed before a meeting of the Commission, this subsection shall not apply to such proposal.

(8) The Commission may co-opt any person to attend and participate in its deliberations on any matter but such person shall not vote on any issue for the decision by the Commission.

(9) The Commission shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form.

(10) Subject to this Act, the Commission shall regulate its own procedure.

150. (1) A member of the Commission who has an interest, whether direct or indirect, in a matter being considered or to be considered by the Commission, shall disclose the nature of his interest to the Commission and the disclosure shall be recorded in the minutes of the Commission and such member shall not take part in a deliberation or decision of the Commission relating to that matter. Disclosure of interest.

(2) A member of the Commission who contravenes subsection (1) shall be guilty of misconduct and shall be removed from the Commission.

151. (1) An action or other proceedings shall not lie or be instituted against a member of the Commission or member of a committee of the Commission for or in respect of an act or thing done or omitted to be done in good faith in the exercise of his functions under this Act. Immunity of members.

(2) A member of the Commission shall not be personally liable for any debt or obligation of the Commission.

152. (1) The Commission shall, for the effective performance of its functions under this Act, appoint such committees with such functions as it considers fit. Committees of Commission.

(2) A committee appointed under subsection (1) shall consist of qualified members of the Commission and the general public.

(3) The committee appointed under subsection (1) shall, in the pursuance of their respective functions, hold public hearings and receive petitions.

PART XI - FUNCTIONS AND POWERS OF COMMISSION

153. (1) The object for which the Commission is established is for the protection and promotion of children's right and welfare in Sierra Leone. Functions of Commission.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Commission to -

- (a) investigate or inquire, on its own or on complaints by a person, allegations of child rights violations and to report in writing;
- (b) monitor and coordinate the implementation of the Convention and the Charter and any other international or regional agreement relating to children to which Sierra Leone is a party;
- (c) organise and coordinate, on an annual basis, the holding of a Child Parliament in order for children to articulate their views;
- (d) monitor and document violation of child rights in Sierra Leone;
- (e) oversee the implementation of the Guiding Principles on the Implementation of the Rights of the Child under Part III;
- (f) advise Government on policies and legal framework aimed at promoting the right and the improvement of the condition or welfare of children in Sierra Leone, compatible with the Convention and the Charter; and
- (g) promote respect for child rights and welfare by-
 - (i) public education and awareness programmes aimed at promoting a culture of respect for child rights in Sierra Leone;
 - (ii) providing information on child rights and locating within the Commission, a resource and documentation centre on child rights and welfare;

- (iii) publishing specific guidelines, manuals and other materials explaining the obligations of public officials in the protection of children's rights, including parental responsibilities; and
- (iv) cooperating with non-governmental organisations and other public interest bodies engaged in the field of child rights.

(3) The Commission shall, in the exercise of its functions under this Act -

- (a) be impartial and fair in the conduct of an investigation or inquiry under this Act;
- (b) report, in writing, the result of an investigation or inquiry and furnish in the report, the reasons for the conclusion reached or reported; and
- (c) publish the report of an investigation, having due regard to the rights of those affected, including their rights to privacy.

(4) The Government shall, where a report is published under paragraph (c) of subsection (3), respond publicly and within 21 days to the recommendation or other decision made by the Commission as the remedy for a violation of Child rights.

(5) The Commission's power of investigation under this Act shall not include the investigation of any matter pending before, or already decided by a court of competent jurisdiction.

(6) The Commission may, in its report on an investigation published under paragraph (c) of subsection (3), recommend the payment of compensation for victims of Child rights violations, their families or legal representatives and also to award costs in appropriate cases.

Powers of Commission. 154. (1) For the purposes of an investigation under this Act, the Commission shall have -

- (a) such powers, rights and privileges as are vested in the High Court of Justice or a judge thereof in a trial in respect of -
 - (i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
 - (ii) compelling the production of documents and other things; and
 - (iii) the issue of a commission or request to examine witnesses abroad;
- (b) power to issue or make orders or directions to enforce its decisions, including measures to protect the life and safety of children and free medical treatment where necessary;
- (c) power to refer to the High Court, for contempt, a person who refuses, without justifiable cause, to comply with a decision, direction or order of the Commission within a specified time;
- (d) have access to government offices, facilities and places of detention, including prisons, police cells, remand homes and probation facilities, in order to investigate a child rights matter initiated by the Commission or brought to the attention of the Commission as well as access to non-classified information in government documents.

(2) The oath or affirmation referred to in subparagraph (i) of paragraph (a) of subsection (1) of section 154 shall be administered by the Chairman or another member or staff of the Commission authorised in that behalf by the Chairman.

(3) A person who is aggrieved by a decision of the Commission made in a report under paragraph (c) of sub-section (3) of section 153 may appeal to the Supreme Court against such decision.

PART XII - ADMINISTRATIVE PROVISIONS

155. (1) The Commission shall have a secretariat which shall provide administrative, secretarial and other support to the Commission. Secretariat of Commission.

(2) The Commission shall employ in the secretariat such staff upon such terms and conditions as it may determine.

156. (1) The Commissioner shall be the Executive Secretary and head of the secretariat who shall be responsible to- Executive Secretary.

- (a) provide overall leadership in the conduct and management of the day-to-day business or activities of the Commission;
- (b) organise fund-raising from donors;
- (c) initiate and maintain high-level contact with interested parties, both local and international, in relevant areas of the welfare and development of children;
- (d) monitor and supervise the preparation of the annual budgets and reports of the Commission;
- (e) recruit and appoint officers and staff of such number and categories as the Commission may specify;

Provided that in making an appointment, the Commissioner shall limit recruitment to positions for which there are vacancies, each with a job description and a continuing justification;

- (f) ensure non-discrimination and equality of treatment for the staff and all applicants for employment.

(2) In the performance of his functions under this Act, the Commissioner shall be assisted principally by the Deputy Commissioner who shall also act for the Commissioner in the absence of the Commissioner.

Deputy
Executive
Secretary.

157. (1) The Commission shall have a Deputy Executive whom the Commission shall, after consultation with the Executive Secretary, Secretary.

(2) A person shall not be appointed Deputy Executive Secretary unless he has formal qualification in a profession, relevant or appropriate to the operations of the Commission and a proven ability in public administration and management.

(3) The Deputy Executive Secretary shall hold office for a period of 5 years and shall be eligible for reappointment for another period of 5 years only.

(4) The Deputy Director-General shall serve as the principal assistant to the Director-General in the administration of the Commission, carry out such duties as may be assigned to him by the Executive Secretary and also act as Executive Secretary in the absence of the Executive Secretary.

Protection
of officers
and other
employees of
Commission.

158. An officer or employee of the Commission or a person acting on the direction of an officer or employee of the Commission shall not be liable in respect of a matter or thing done by him under this Act in good faith.

Provincial or
district
offices.

159. (1) The Commission may, for the purpose of carrying out its functions under this Act, have such provincial or district offices as the Commission may, on the recommendation of the Executive Secretary, approve.

(2) A provincial or district office under subsection (1) shall be headed by a Director appointed by the Commission on advice of the Executive Secretary.

PART XIII - FUNDS OF COMMISSION

160. (1) The activities of the Commission under this Act shall be financed by funds which shall include - Funds of Commission.

- (a) moneys appropriated by Parliament for the purposes of the Commission;
- (b) gifts or grants from donors;
- (c) income from any investment by the

Commission.

(2) The Commission shall have power to seek funding from donors and coordinate all funding from donors for activities related to the welfare of the child.

(3) Monies received on account of the Commission shall be paid into such bank account as the Commission may determine, but the Commission may invest as it considers fit, monies not required for immediate use by the Commission.

161. (1) The Commission shall keep proper books of account and proper records in relation to the funds of the Commission and the books of accounts and records shall be in such form as the Auditor-General may approve. Accounts and audit.

(2) The books of account of the Commission shall be audited by the Auditor-General or an auditor appointed by him within 3 months after the end of each financial year.

162. The financial year of the Commission shall be the same as the financial year of the Government. Financial year of Commission.

Annual
report of
Commission.

163. (1) The Commission shall prepare and submit to the Minister, not later than 3 months after the end of each financial year, a report dealing generally with the activities of the Commission during the financial year to which the report relates, including the Auditor-General's report and the number and types of child-related projects and organisations funded or supported by the Commission.

(2) The Minister shall table the report submitted under subsection (1) before Parliament as soon as practicable.

PART XIV-DECENTRALIZATION, LOCAL COUNCILS AND WARD WELFARE COMMITTEES

Ward
Welfare
Committees.

164. (1) Subject to subsection (2), every Paramount Chief shall, with the assistance of a social services officer, social worker or protection officer and an officer of the local council, cause to be elected from among residents of the Ward, the members of a Ward Child Welfare Committee.

(2) The composition of a Chiefdom Child Welfare Committee shall be as follows -

- (a) a social services officer, social worker, protection officer, nominated by the Minister;
- (b) a traditional leader elected at a meeting of tribal authorities in the chiefdom;
- (c) a man and woman representing parents in the Ward on account of such woman's or man's interest and work on child welfare;
- (d) one female child or young person, representing young persons and children elected by a specially convened children's and youth forum, facilitated by the Ministry;
- (e) one male child or young person, representing young people and children elected by a specially convened children's and youth forum, facilitated by the Ministry;

- (f) 3 service providers, elected from a list of service providers nominated by the basic social services ministries;
- (g) 2 representatives (both sexes to be represented) of non-governmental organisations or community based organisations, in the chiefdom and other chiefdom stakeholders facilitated by a social welfare officer;
- (h) 2 persons representing the religious sector in the chiefdom elected in a specially convened forum, facilitated by a social welfare officer but not all 2 representatives shall belong to one religion or be all of the same sex.

(3) The Ward Child Welfare Committee shall elect a Chairman from within its membership.

(4) The social services officer, social worker and protection officer nominated to be a member of the Ward Child Welfare Committee shall serve as a secretary to the Committee.

(5) A member of the Ward Child Welfare Committee shall hold office for a term of 2 years and shall be eligible for re-election.

(6) A member of the Ward Child Welfare Committee shall cease to be a member if he -

- (a) dies;
- (b) resigns upon given one month's notice to the Director of Children's Affairs Directorate, of the Ministry,;
- (c) commits a misconduct inconsistent with his role as a member of Ward Child Welfare Committee;
- (d) neglects his duties as a member of Ward Child Welfare Committee.

(7) A vacancy in a Ward Child Welfare Committee shall be filled in accordance with subsection (2).

Functions of
Ward Welfare
Committees.

165. (1) The object for which a Ward Child Welfare Committee is elected shall be to coordinate and advance the enjoyment of the rights of the child in the Chiefdom.

(2) Without prejudice to the generality of subsection (1), the duties of a Ward Child Welfare Committee shall be to -

- (a) render advice to Ward Child Welfare Committees in the Ward;
- (b) receive and attend to cases and questions referred to the Committee from Ward in the Ward Child Welfare Committees;
- (c) monitor the enjoyment of child rights within the chiefdom;
- (d) refer to the local council any matters relating to child welfare that the chiefdom welfare committee is not able to deal with;
- (e) submit regular observations, reports and concerns on child welfare in the chiefdom local council and to the Ministry;
- (f) undertake any other functions that may advance the enjoyment of the rights of the child within the jurisdiction of the committee.

Responsibilities
of the
Ministry.

166. (1) The Ministry, in collaboration with other Ministries, shall have the responsibility to promote the enjoyment of child rights and welfare in Sierra Leone.

(2) Subject to this Act, the Ministry shall have the overall function to monitor, supervise and coordinate the activities of Ward Child Welfare Committees and to ensure the progressive advancement of children's rights and welfare throughout the country.

(3) In collaboration with relevant stakeholders the Ministry shall undertake research on the welfare of children in Sierra Leone.

(4) Without prejudice to the overall functions specified in this section, it shall be the responsibility of the Ministry to -

- (a) provide administrative and logistical support including training for the effective functioning of the Ward Child Welfare Committees;
- (b) render expert advice and guidance to child welfare committees and respond to inquiries from Ward Child Welfare Committees;
- (c) receive and review periodic reports from child welfare committees at all levels;
- (d) prepare and submit to the Commission quarterly reports on the status and welfare of children in Sierra Leone; and
- (e) facilitate information - sharing and networking of Ward Child Welfare Committees.

167. (1) For the avoidance of any doubt, a Ward Child Welfare Committee shall not have jurisdiction over the following cases, which it shall immediately refer to the Sierra Leone Police for investigations, and possible criminal prosecution -

Jurisdiction of
Ward Welfare
Committee
and power to
issue
instructions
and advice.

- (a) the offence of murder;
- (b) the offence of treason;
- (c) the offence of rape, defilement, indecent assault or any other sexual offence;
- (d) felonies related to the serious damage to property, injury to the person, and other serious crimes that may from time to time be specified in the Gazette by the Minister responsible for justice;

(2) A Ward Child Welfare Committee shall, in determining a matter, issue advice or instruction to any of the parties involved or to any other person.

(3) For the avoidance of doubt, a Ward Child Welfare Committee shall have no power to punish, imprison, impose a fine, order damages, or any other sanctions.

Proceedings
of Ward
Welfare
Committee to
informal.

168 (1) Proceedings of a Ward Child Welfare Committee, when attended by a child, shall be informal.

(2) A Ward Child Welfare Committees and a court handling a matter involving a child shall dispose of such matters as quickly as possible, allowing any child directly concerned to contribute to the search for solutions, according to the child's age and ability.

Appeal from
Ward Welfare
Committee.

169. A person, including any child, aggrieved by the decision of a Ward Child Welfare Committee at a level lower than the district, may appeal to a Child Panel within the district.

Failure to
comply
with
instruction
of Ward
Welfare
Committee.

170. (1) A person who without reasonable cause fails to comply with any instruction of a Ward Child Welfare Committee shall be liable to a fine of not less than NLe. 50.

(2) A social welfare officer may apply to the Family Tribunal or a court for an appropriate order in a case where a person has failed to comply with any instruction of a Ward Child Welfare Committee.

Local council
to protect
children.

171. (1) A local council shall protect the welfare and promote the rights of children within its area of authority and shall ensure that within the district, governmental agencies liaise with each other in matters concerning children.

(2) Subject to this Part, the local council by its appropriate child welfare department, shall investigate cases of contravention of child rights within the district that are reported to it or come to its notice.

172. (1) If the local council has reasonable grounds to suspect child abuse or a need for care and protection of a child, it shall direct a probation officer or social welfare officer accompanied by the police to enter and search the premises where the child is kept to investigate. Investigation
by local
council.

(2) The local council shall direct the probation officer or the social welfare officer to refer the matter to a Child Panel established under section 47, if the child is not in immediate need of care and protection.

(3) If after investigation, it is determined that the child has been abused or is in need of immediate care and protection, the local council shall direct a probation officer or social welfare officer accompanied by the police to remove the child to a place of safety for a period of not more than 7 days.

(4) Before the expiry of the seven-day period referred to in subsection (3), the child shall be brought before a Family Court by the probation officer or social welfare officer for an order to be made.

(5) Until the Family Court determines the order, the Family Court may commit the child to an approved residential home or to the care of a probation officer, social welfare officer or other suitable person.

PART XV - MISCELLANEOUS

173. (1) Subject to this Act, the Minister may, by statutory instrument, make such regulations as he may consider necessary for giving effect to this Act. Regulations.

(2) Notwithstanding the generality of subsection (1), the Minister may make regulations relating to the regulation of -

- (a) conduct of proceedings and discharge of functions by Social Services Department;
- (b) publication of records and related to a child;
- (c) procedure, consistent with the rules of natural justice, for the conduct of investigations or inquiries into child rights violation, including

- (i) the filing of complaints by victims, legal representatives or families of victims, state or non-state or any other party or member of the public;
 - (ii) the admissibility of complaints;
 - (iii) the proof of facts;
 - (iv) the examination of witnesses;
 - (v) representation by legal practitioners; and
 - (vi) other related matters;
- (d) the payment of compensation and the rendering of financial assistance, including legal aid, to children who are victims of violations.

Repeal and
savings.

174. The Child Rights Act, 2007 (Act No. 7 of 2007) is hereby
repealed.

SCHEDULE

(section 112 (1)).

Application to Foster a Child**Foster Care Placements**

Name of applicant:.....

Married/single:.....

Age:

Address:

Tel. No.:

Number of children:.....

Age(s) of children:

Employment of applicant:

Employment of husband:

Employment of wife:

Other sources of income (e.g. farm).....

Have you ever fostered a child/children before? (If so, give particulars)

Reasons to foster:

Are you willing to undertake short-term fostering?

Names of two referees and their addresses (one shall be your local LC 1 chairperson or village chief)

1.....2.....

Age range Sex of child you wish to foster.....

Applicant's signature:

Date:

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to repeal and replace the Child Rights Act, 2007 (Act No. 7 of 2007), to make provision for the promotion of the rights and responsibilities of children and the obligation of the state to provide for such rights as outlined in the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of Children and to provide for other related matters.

The Bill is divided into 14 Parts.

PART I- PRELIMINARY - makes provision for the interpretation and definition of words used throughout the Bill.

PART II- RIGHTS AND RESPONSIBILITIES OF CHILDREN AND THE RESPONSIBILITY OF THE STATE - provides for the definition and verification of age of a child and other rights of a child, the minimum age of marriage and right to refuse betrothal or marriage and recruitment into armed forces and outlines the responsibilities of child, parents and of the state.

PART III- GUIDING PRINCIPLES ON THE IMPLEMENTATION OF THE RIGHTS OF THE CHILD - provides a list of the child rights guiding principles, including the Best interests of child, non-discrimination, respect for child's opinion and view and equal treatment.

PART IV- PROTECTION FROM ABUSE, VIOLENCE, EXPLOITATION AND NEGLECT - provides for protection of the child from all forms of physical violence, psychological and emotional abuse, sexual violence early or forced marriage and betrothal, harmful practices, neglect, child trafficking, exploitative child labour, cyber-attack,

PART V- EMPLOYMENT OF THE CHILD - makes provision for the minimum age for full- time employment the prohibition of child labour, apprenticeship , registration of children in industrial undertakings and resolution of disputes.

PART VI- CHILD JUSTICE - deals with the establishment and function of child panels, Juvenile court and Family Court.

PART VII- CHILDREN IN NEED OF SPECIAL CARE AND PROTECTION deals with Care order and Supervision order of Family Court, duties of social workers, social services and protection officers and discharge of orders.

PART VIII - PARENTAGE, PARENTAL RESPONSIBILITIES, CARE, CUSTODY AND ACCESS - contains provisions relating to parental rights, duties and responsibilities.

PART IX - ALTERNATIVE CARE - ADOPTION AND DAYCARE - states the Guiding principles for provision of alternative care, guidance for fosterage of child, adoption, residential care home for children and the inspection of day-care centres.

PART X - NATIONAL COMMISSION FOR CHILDREN - deals with the establishment of Commission and proceedings of Commission.

PART XI - FUNCTIONS AND POWERS OF COMMISSION - outlines the functions powers of Commission.

PART XII - ADMINISTRATIVE PROVISIONS - deals with the Secretariat of Commission, appointment and function of the Executive Secretary, Deputy Executive Secretary and other employees of Commission.

PART XIII - FUNDS OF COMMISSION - deals with funds of Commission.

PART XIV - DECENTRALIZATION, LOCAL COUNCILS AND WARD WELFARE COMMITTEES - deals with Ward Welfare Committees.

PART XV - MISCELLANEOUS - provides for the power to make Regulations and repeal and savings.

Made this 5th day of September, 2024

DR. ISATA MAHOI
Minister of the Gender and Children's Affairs

FREETOWN,
SIERRA LEONE.