



TRINIDAD AND TOBAGO,

No. 31—1946.

[L.S.]

I ASSENT,

B. E. H. CLIFFORD,

Governor

23rd May, 1946.

AN ORDINANCE to make provision for the adoption of children.

Commence-
ment.

[By Notice.]

Enactment.

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Short title and
commence-
ment.

1. This Ordinance may be cited as the Adoption of Children Ordinance, 1946, and shall come into operation on such date as the Governor may declare by notice in the *Royal Gazette*.

2. In this Ordinance —

Interpretation.

“adopter” means a person who is proposing to adopt, or who has adopted a child, whether in pursuance of an adoption order or otherwise;

“adoption order” means an adoption order for the purposes of this Ordinance and includes an interim order made under section 13 of this Ordinance;

“child” means a person under the age of twenty-one years who has never been married;

“Court” means any court having jurisdiction to make adoption orders under this Ordinance;

“guardian” in relation to a child means a person appointed by deed or will in accordance with the provisions of the Infants Ordinance, or by a court of competent jurisdiction, to be his guardian; Ch. 5. No. 12.

“relative” means a grandparent, brother, sister, uncle or aunt, whether by consanguinity or affinity, and in the case of an illegitimate child, a person who would be so related if the child were legitimate.

3. (1) For the purposes of this Ordinance a Board to be called the Adoption Board (in this Ordinance hereinafter referred to as the Board) shall be constituted which shall consist of a Chairman and not more than five persons to be appointed by the Governor. Establishment of Adoption Board.

(2) At any meeting of the Board from which the Chairman is absent the members present shall appoint one of their number to officiate as Chairman of that meeting.

(3) The quorum of the Board shall be three.

(4) The Governor may appoint any person to act in the place of any member of the Board in case of the absence or inability to act of such member.

(5) The Board shall have power to regulate its procedure.

4. (1) It shall not be lawful for any person other than the Board to make any arrangements for the adoption of a child. Restriction on making arrangements for the adoption of children.

(2) If any person takes part in arranging an adoption or in the management or control of a body of persons other than the Board which exists wholly or in part for the purpose of making arrangements for the adoption of children, he shall, on summary conviction, be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one thousand dollars, or to both such imprisonment and such fine,

(3) For the purposes of this Ordinance, a person shall be deemed to make arrangements for the adoption of a child if he, not being the parent or guardian of the child, enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is affected, in pursuance of an adoption order or otherwise, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another so to do.

Duties of Board.

5. It shall be the duty of the Board —

- (a) to receive applications from parents, guardians and adopters in respect of the adoption of children ;
- (b) to make such investigations concerning the adoption of children for the consideration of the Court as may be prescribed under section 9 of this Ordinance ;
- (c) to act as guardian *ad litem* of any child in respect of whom an adoption order is sought.

Provisions relating to arrangements made by Board.

6. (1) Where arrangements are made by the Board for the adoption of a child, an application to the Court for an adoption order in respect of the child shall not be made by the adopter until the expiration of a period of six months from the date upon which the child is delivered into the care and possession of the adopter pursuant to the arrangements and at any time during that period —

- (a) the adopter may give notice in writing to the Board of his intention not to adopt the child ; or
- (b) the Board may cause notice in writing to be given to the adopter of its intention not to allow the child to remain in the care and possession of the adopter,

and where a notice is so given, the adopter shall, within seven days of the date on which the notice was given, cause the child to be returned to the Board, and the Board shall receive the child accordingly.

(2) The Board shall appoint one or more persons whose duty shall be to keep the child under close supervision during the said period of six months in accordance with regulations made under this Ordinance.

(3) If, at the expiration of the said period of six months, no notice has been given as aforesaid, the adopter shall within three months from the date upon which that period so expired apply to the Court for an adoption order in respect of the child

or shall give notice in writing to the Board of his intention not to apply for such an order, and, where notice is so given or where an application for an adoption order in respect of the child is refused by the Court, the adopter shall, within seven days of the date on which the notice was given or of the date upon which the application is so refused, as the case may be, cause the child to be returned to the Board, and the Board shall receive the child accordingly.

(4) Any person who contravenes the provisions of this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred and fifty dollars or to both such imprisonment and such fine, and the court by which the offender is convicted may order any child in respect of whom the offence is committed to be returned to his parents or guardian or to the Board.

7. Where any person has made representations to the Board with a view to the adoption of a child, and the Board is of the opinion that the adoption of the child by such person would not be in the best interests of the child, the Board shall notify such person accordingly, and such person may appeal from the decision of the Board to a Judge of the Supreme Court in a summary way.

Appeals by persons desirous of adopting children.

8. Where the child in respect of whom an adoption order is sought is an inmate of a certified school as defined by section 29 of the Children Ordinance, the managers of the school may, with the consent of the Governor, and notwithstanding anything contained in section 56 or section 57 of the said Ordinance, sanction the unconditional release of the child from the school for the purposes of the adoption.

Release of inmate of certified school for purposes of adoption. Ch. 4. No. 21.

9. (1) The Governor in Council may make regulations—

Regulations.

(a) for regulating the conduct of negotiations entered into by or on behalf of the Board with persons having the care and possession of children who are desirous of causing children to be adopted, and in particular for securing—

(i) that, where the parent or guardian of a child proposes to place the child at the disposition of the Board with a view to the child being adopted, he shall be furnished with a memorandum in the prescribed form explaining in ordinary

language the effect, in relation to his rights as a parent or guardian, of the making of an adoption order in respect of the child, and calling attention to the provisions of this Ordinance and of any rules made hereunder relating to the consent of a parent or guardian to the making of such an order, and

- (ii) that, before so placing the child at the disposition of the Board, the parent or guardian shall sign a document in the prescribed form verifying that he has read or had read and understood the said memorandum ;
- (b) for requiring that the case of every child proposed to be delivered by or on behalf of the Board into the care and possession of an adopter shall be considered by a committee (to be called a "case committee") comprised of not less than three members of the Board ;
- (c) for prescribing, in the case of every such child as aforesaid, the inquiries which must be made and the reports which must be obtained by the Board in relation to the child and the adopter for the purpose of ensuring, so far as may be, the suitability of the child and the adopter respectively, and, in particular, for requiring that a report on the health of the child and prospective adopter signed by a duly qualified medical practitioner must be obtained by the Board ;
- (d) for securing that no such child shall be delivered into the care and possession of an adopter by or on behalf of the Board until the adopter has been interviewed by the case committee or by some person on their behalf, until a representative of the committee has inspected any premises in the Colony in which the adopter intends that the child should reside permanently, and until the committee have considered the prescribed reports ;
- (e) for making provision for the care and supervision of children who have been placed by their parents or guardians at the disposition of the Board ;

(f) generally for carrying out the purposes of this Ordinance.

(2) Any person who contravenes or fails to comply with any of the provisions of a regulation made under this section shall be liable, on summary conviction, to a fine not exceeding one hundred and twenty-five dollars and, in the case of a second or subsequent conviction, to a fine not exceeding two hundred and fifty dollars.

10. (1) Upon an application in the prescribed manner by any person desirous of being authorised to adopt a child, the Court may, subject to the provisions of this Ordinance, make an adoption order authorising the applicant to adopt that child. Power to make adoption orders.

(2) Where an application for an adoption order is made by two spouses jointly, the Court may make the order authorising the two spouses jointly to adopt, but save as aforesaid no adoption order shall be made authorising more than one person to adopt a child.

11. (1) An adoption order shall not be made in any case where — Restrictions on making adoption orders.

(a) the applicant is under the age of twenty-five years, or

(b) the applicant is less than twenty-one years older than the child in respect of whom the application is made: Provided that it shall be lawful for the court, if it thinks fit, to make an order —

(i) notwithstanding that the applicant is less than twenty-five years of age, if the applicant is the mother of the child; or

(ii) notwithstanding that the applicant is less than twenty-one years older than the child, if the applicant and the child are within the prohibited degrees of consanguinity, or if the application is made by or on behalf of two spouses jointly and the wife is the mother of the child or the husband is the putative father of the child.

(2) An adoption order shall not be made in any case where the sole applicant is a male unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

(3) An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the child in respect of whom the application is made or who has the actual custody of the child or who is liable to contribute to the support of the child: Provided that the Court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the child or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the Court and in all the circumstances of the case to be dispensed with.

(4) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them: Provided that the Court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving such consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(5) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in the Colony nor in respect of any child who is not a British subject and so resident.

Matters with respect to which Court to be satisfied.

12. The Court before making an adoption order shall be satisfied —

- (a) that every person whose consent is necessary under this Ordinance and whose consent is not dispensed with has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of any parent understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights;
- (b) that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the religious denomination of the parties and to the wishes of the child, having regard to the age and understanding of the child;
- (c) that the applicant has not received or agreed to receive, and that no person has made or given,

or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the Court may sanction.

13. (1) If on application for an adoption order the Court is of the opinion that a further probationary period is desirable it shall have power to make an interim order not exceeding two years. Power to make interim orders.

(2) All such consents as are required for an adoption order shall be necessary to an interim order but subject to the power of the Court to dispense with any such consents.

14. The Court in an adoption order may impose such terms and conditions as the Court may think fit and in particular may require the adopter by bond or otherwise to make for the adopted child such provision (if any) as in the opinion of the Court is just and expedient. Terms and conditions of order.

15. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted child, in relation to the future custody, maintenance and education of the adopted child, including all rights to appoint a guardian or to consent or give notice of dissent of marriage shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child was a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock: Provided that, in any case where two spouses are the adopters, such spouses shall in respect of the matters aforesaid and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother respectively. Effect of adoption order.

(2) An adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition whether occurring or made before

or after the making of the adoption order, or confer on the adopted child any right to or interest in property as a child of the adopter, and the expressions "child", "children" and "issue" where used in any disposition whether made before or after the making of an adoption order, shall not, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child.

(3) Where an adopted child or the spouse or issue of an adopted child takes any interest in real or personal property under a disposition by the adopter, or where an adopter takes any interest in real or personal property under a disposition by an adopted child or the spouse or issue of an adopted child, any succession, legacy or other duty which becomes leviable in respect thereof shall be payable at the same rate as if the adopted child had been a child born to the adopter in lawful wedlock.

(4) For the purposes of this section "disposition" means an assurance of any interest in property by any instrument whether *inter vivos* or by will including codicil.

Ch. 38, No. 2.

(5) For the purposes of the Friendly Societies Ordinance, which enables societies to insure money to be paid for funeral expenses, and which restricts the persons to whom money may be paid on the death of a child under the age of ten, the adopter shall be deemed to be the parent of the child; and where before the adoption order was made any such insurance had been effected by the natural parent of the child, the rights and liabilities under the policy shall by virtue of the adoption order be transferred to the adopter, and the adopter shall, for the purposes of the said Ordinance, be treated as the person who took out the policy.

Power to make subsequent order in respect of child already subject to an order.

16. An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order, and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Ordinance.

Jurisdiction and procedure.

17. (1) The Court having jurisdiction to make adoption orders under this Ordinance shall be the Supreme Court or, at the option of the applicant, any court of summary jurisdiction within the jurisdiction of which either the applicant or the child resides at the date of the application for the adoption order.

(2) Rules directing the manner in which applications to the Court are to be made for regulating appeals under section 8 of this Ordinance and dealing generally with all the matters of procedure and incidental matters arising out of this Ordinance may be made in like manner as rules may be made under and for the purposes of the Judicature Ordinance. Ch. 3. No. 1. Such rules may provide for applications for adoption orders being heard and determined otherwise than in open court, and, where the application is made to a court of summary jurisdiction, for the hearing and determination thereof in a juvenile court within the meaning of section 88 of the Children Ordinance.

18. It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the Court to receive any payment or other reward in consideration of the adoption of any child under this Ordinance or for any person to make or give or agree to make or give to any adopter or to any parent or guardian any such payment or reward. Restrictions on payments.

19. (1) It shall not be lawful for any advertisement to be published indicating that — Restriction on advertisements.

(a) the parent or guardian of a child is desirous of causing the child to be adopted; or

(b) a person is desirous of adopting a child, or any person (not being the Board) is willing to make arrangements for the adoption of a child.

(2) Any person who causes to be published, or knowingly publishes an advertisement in contravention of the provisions of this section shall be liable, on summary conviction, to a fine not exceeding two hundred and fifty dollars.

20. Where at the date of the commencement of this Ordinance any child is in the custody of, and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any *de facto* adoption, and has for a period of not less than two years before such commencement been in such custody, and been so brought up, maintained and educated, the Court may, upon the application of such persons or spouses, and notwithstanding that the applicant is male make an adoption order authorising him, her or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being satisfied after inquiry by the Board Provisions as to existing *de facto* adoptions.

that in all the circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

Adopted
children
register.

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

(2) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register an entry recording the adoption in the form set out in the Schedule hereto.

(3) If upon any application for an adoption order there is proved to the satisfaction of the Court—

(a) the date of the birth of the child ; and

(b) the identity of the child with a child to which any entry or entries in the Registers of Births relates ;

the adoption order shall contain a further direction to the Registrar General to cause such birth, entry or entries in the Registers of Births, to be marked with the word " adopted " and to include in the entry in the adoption register recording the adoption the date stated in the Order of the adopted child's birth in the manner indicated in the Schedule hereto.

(4) The prescribed officer of the Court shall cause every adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of such communication the Registrar General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Registers of Births with the word " adopted " and in regard to making the appropriate entry in the Adopted Children Register.

(5) A certified copy of any entry in the Adopted Children Register if purporting to be signed by the Registrar General shall, without any further or other proof of such entry—

(a) where the entry does not contain any record of the date of the birth of the adopted child be received as evidence of the adoption to which the same relates ; and

- (b) where the entry contains a record of the date of the birth of the adopted child shall be received not only as evidence of the adoption to which the same relates but also as evidence of the date of the birth of the adopted child to which the same relates in all respects as though the same were a certified copy of an entry in the Register of Births.

(6) The Registrar General shall cause an index of the Adopted Children Register to be made and kept in his office, and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register in all respects upon, and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Births and Deaths Registration Ordinance, or any other Ordinance, in respect of searches in indexes relating to births and deaths kept in the office of the Registrar General, and in respect of the supply from such office of certified copies of entries in the Registers of Births and Deaths.

(7) The Registrar General shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary, to record and make traceable the connexion between any entry in the register of births which has been marked "adopted" pursuant to this Ordinance and any corresponding entry in the Adopted Children Register, but such last-mentioned registers and books shall not be nor shall any index thereof be open to public inspection or search, nor, except under an order of a court of competent jurisdiction, shall the Registrar General furnish any person with any information contained in or with any copy or extract from any such registers or books.

(8) Regulations made by the Registrar General under the Births and Deaths Registration Ordinance may make provision as to the duties to be performed by Superintendent Registrars and Registrars of Births and Deaths in the execution of this Ordinance,

SCHEDULE.

(1) No. of Entry.	(2) Date of Entry.	(3) Name of Adopted Child. (Enter name as stated in Adoption Order.)	(4) Sex of Adopted Child. (Enter sex as stated in Adoption Order.)	(5) Name and Sur- name, Address and Occupation of Adopter or Adopters. (Enter name, address and Occupation as stated in Adoption Order.)	(6) Date of Birth of Child. (Enter date of Birth (if any) directed by the Adoption Order to be entered, but otherwise no entry.)	(7) Date of Adoption Order and des- cription of Court by which made. (Entry to be made as appear- ing in the Adoption Order.)	(8) Signature of Officer deputed by Registrar General to attest the Entry.

Passed in Council this tenth day of May, in the year of
Our Lord one thousand nine hundred and forty-six.

W. J. BOOS.

Clerk of the Council.