CHAPTER 59

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CHAPTER 59

THE CHILDREN ACT.

Commencement: 1 August, 1997.

An Act to reform and consolidate the law relating to children; to provide for the care, protection and maintenance of children; to provide for local authority support for children; to establish a family and children court; to make provision for children charged with offences and for other connected purposes.

PART I—INTERPRETATION.

1. Interpretation.

In this Act, unless the context otherwise requires—

(a) "approved home" means a Government or nongovernmental home approved by the Minister to provide substitute family care for a child and includes a babies' home and children's home which provide care and accommodation for children aged below six years and aged between three to under eighteen years respectively;

(b) "authorised person" means an official or other person authorised expressly or impliedly to perform the act in question;

(c) "care order" means a care order made under Part V of this Act and includes an interim care order;

(d) "chief magistrate's court" means a magistrate's court presided over by a chief magistrate;

(e) "competent authority" means an official or body or other person authorised expressly or impliedly by any enactment or otherwise to perform the act in question;

(f) "custodian" means a person in whose care a child is physically placed;

(g) "detention centre" means a detention centre within the meaning of section 96;

(h) "exclusion order" means an exclusion order made under section 34;

(i) "foster care placement" means the placement of a child with a person who is not his or her parent or relative and who is willing to undertake the care and maintenance of the child;

(j) "foster parent" means a person not being the biological mother, father or relative of the child who assumes parental responsibility of the child by way of a care order;
(k) "guardian" means a person having parental responsibility for a child;
(l) "local authority" means a local government council;
(m) "Minister" means the Minister responsible for children's welfare;
(n) "parent" means the biological mother or father or adoptive mother or father of a child;
(o) "parental responsibility" means all rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child;
(p) "person in a position of authority" has the meaning assigned to it by section 71;
(q) "place of safety" means a place where food, protection and accommodation is provided by a fit person to a child to whom section 37 applies;
(r) "remand home" means a place declared by the Minister to be a remand home under section 91 or any other place declared to be a remand home under any other enactment;
(s) "Rules Committee" means the Rules Committee provided for by section 40 of the Judicature Act;
(t) "significant harm" means significant harm within the meaning of section 21;
(u) "supervision order" means a supervision order made under Part V of this Act and includes an interim supervision order;
(v) "supervisor" means the person under whose supervision a child has been placed under a supervision order or an interim supervision order;
(w) "welfare report" means a welfare report within the meaning of section 20.

PART II—RIGHTS OF THE CHILD.

2. Definition of child.

A child is a person below the age of eighteen years.

3. Guiding principles.

The welfare principles and the children's rights set out in the First Schedule

to this Act shall be the guiding principles in making any decision based on this Act.

4. Child's right to stay with parents.

(1) A child is entitled to live with his or her parents or guardians.

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

5. Duty to maintain a child.

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

(a) education and guidance;
(b) immunisation;
(c) adequate diet;
(d) clothing;
(e) shelter; and
(f) medical attention.

(2) Any person having custody of a child shall protect the child from discrimination, violence, abuse and neglect.

6. Parental responsibility.

(1) Every parent shall have parental responsibility for his or her child.

(2) Where the natural parents of a child are deceased, parental responsibility may be passed on to relatives of either parent, or by way of a care order, to the warden of an approved home, or to a foster parent.

7. Harmful customary practices.

It shall be unlawful to subject a child to social or customary practices that are harmful to the child's health.

8. Harmful employment.

No child shall be employed or engaged in any activity that may be harmful to his or her health, education or mental, physical or moral development.

9. Children with disabilities.

The parents of children with disabilities and the State shall take appropriate steps to see that those children are—

(a) assessed as early as possible as to the extent and nature of their disabilities;
(b) offered appropriate treatment; and
(c) afforded facilities for their rehabilitation and equal opportunities to education.

PART III—SUPPORT FOR CHILDREN BY LOCAL AUTHORITIES.

10. Local councils to safeguard children and promote reconciliation between parents and children.

(1) It is the general duty of every local government council from the village to the district level—

(a) to safeguard and promote the welfare of children within its area; and
(b) to designate one of its members to be the person responsible for the welfare of children; and this person shall be referred to as the secretary for children's affairs.

(2) The secretary for children's affairs shall, in the exercise of his or her functions in relation to the welfare of children, be assisted by such officers of the local government council as the local government council may determine.

(3) In particular, every local government council shall mediate in any situation where the rights of a child are infringed and especially with regard to the protection of a child, the child's right to succeed to the property of his or her parents and all the rights accorded to a child in section 5.

(4) The power given to the local government council to protect the property of a child shall not include any powers of distribution of the property by the local government council.

(5) A local government council shall keep a register of disabled children within its area of jurisdiction and give assistance to them whenever possible in order to enable those children to grow up with dignity among other children and to develop their potential and self-reliance.

(6) Each local government council shall provide assistance and accommodation for any child in need within its area of jurisdiction who appears to the committee to require assistance and accommodation as a result of his or her having been lost or abandoned or seeking refuge.

(7) Each local government council shall make every effort, including publication through the mass media, to trace the parents or guardians of any lost or abandoned child or to return the child to the place where he or she ordinarily resides; and where the committee does not succeed, it shall refer the matter to a probation and social welfare officer or to the police.

11. Duty to report infringement of child's rights.

(1) Any member of the community who has evidence that a child's rights are being infringed or that a parent, a guardian or any person having custody of a child is able to but refuses or neglects to provide the child with adequate food, shelter, clothing, medical care or education shall report the matter to the local government council of the area.

(2) The secretary for children's affairs may, upon receiving the report, summon the person against whom the report was made under subsection (1) to discuss the matter; and a decision shall be made by the secretary for children's affairs in the best interests of the child.

(3) Where the person against whom the report was made refuses to comply with the decision made under subsection (2), the secretary of children's affairs shall refer the matter to the village executive committee court which shall adjudicate the matter and may—

(a) give any relief or order allowed by the law; and

(b) in the case of a parent, in addition to the reliefs or orders given under paragraph (a), order the parent to execute a bond to exercise proper care and guardianship by signing an undertaking to provide the child with any or all of the requirements of the child.

12. Appeals.

Subject to this Act, the executive committee court at village level shall be the court of first instance in matters under this Part of the Act and appeals from that court shall follow the order of appeals as set out in section 105.

PART IV—FAMILY AND CHILDREN COURT.

13. Establishment of family and children court.

(1) There shall be a court to be known as the family and children court in every district, and any other lower government unit designated by the Chief Justice by notice in the Gazette.

(2) A magistrate not below the grade of magistrate grade II shall be assigned to preside over the family and children court.

14. Jurisdiction of family and children court.

(1) A family and children court shall have power to hear and determine—

(a) criminal charges against a child subject to sections 93 and 94; and

(b) applications relating to child care and protection.

(2) The court shall also exercise any other jurisdiction conferred on it by this or any other written law.

15. Venue of the family and children court.

A family and children court shall, whenever possible, sit in a different building from the one normally used by other courts.

16. Procedure in family and children court.

(1) The procedure of the family and children court in all matters shall be in accordance with rules of court made by the Rules Committee for the purpose, but subject to the following—

(a) the court shall sit as often as necessary;

(b) proceedings shall be held in camera;

(c) proceedings shall be as informal as possible and by inquiry rather

than by exposing the child to adversarial procedures;

(d) parents or guardians of the child shall be present whenever possible;

(e) the child shall have a right to legal representation;

(f) the right to appeal shall be explained to the child.

(2) Apart from members and officers of the court, only the following persons may at the discretion of the court attend any sitting of a family and children court—

(a) parties to the case before the court, their advocates, witnesses and other persons directly concerned in the case;

(b) parents or guardians of the child before the court;

(c) a probation and social welfare officer; and

(d) any other person whom the court authorises to be present.

17. Care or supervision order to be of benefit to child.

A family and children court shall not make a supervision order or a care order unless it considers that doing so would be beneficial to the child.

18. Rules of court.

The Rules Committee may make rules prescribing—

(a) the procedure to be followed in a family and children court and, in particular, as to the recording of evidence and the manner of arriving at and recording of findings and orders;

(b) the manner in which a family and children court shall be constituted.

PART V—CARE AND PROTECTION OF CHILDREN.

19. Supervision orders and care orders.

On the application of a probation and social welfare officer or an authorised person, a family and children court may make—

(a) a supervision or interim supervision order placing a child under the supervision of a probation and social welfare officer while leaving the child in the custody of his or her parents or relatives.

(b) a care order or interim care order, placing a child in the care of the warden of an approved home or with an approved foster parent in accordance with the Foster Care Placement Rules in the

Second Schedule to this Act.

20. Welfare reports.

(1) The family and children court shall require a written welfare report in respect of a child before making a supervision order or a care order.

(2) It shall be the duty of the probation and social welfare officer to prepare a welfare report, and he or she shall comply with the request of a family and children court whenever required to produce a welfare report.

(3) The probation and social welfare officer shall make a home visit and interview the parents of the child concerned before making a welfare report.

(4) Where the child in respect of whom the welfare report is made is of sufficient age and understanding, he or she shall be interviewed by the probation and social welfare officer.

(5) A welfare report shall contain matters relating to the welfare of the child and recommendations as to any action to be taken by the family and children court.

(6) The family and children court shall take the information contained in the welfare report into account in as far as it is relevant to the order being made.

(7) If the family and children court is not satisfied with any recommendation made by the probation and social welfare officer in the welfare report, it shall state and record its reasons for not complying with the recommendation.

21. Grounds for making a supervision or care order.

A family and children court may only make an order under this Part, if it is satisfied that—

(a) the child concerned is suffering or is likely to suffer significant harm; and

(b) that the harm, or probability of harm, is attributable to—

(i) the care given to the child, or likely to be given to the child if the order were not made, not being what it would be

reasonable to expect a parent to give to a child; or

(ii) the child's being beyond parental control.

Supervision order.

22. Application for a supervision order.

Before making an application for a supervision order, the probation and social welfare officer or an authorised person shall be satisfied that—

(a) the local government councils from village to subcounty level where the child resides have dealt with the matter without success;

(b) there is need for continuous supervision enforced by a court order.

23. Duties of a supervisor while a supervision order is in force.

The duties of a supervisor while a supervision order is in force are—

(a) to be friendly to, advise and assist the supervised child;

(b) to advise the parents;

(c) to make plans for the child's future in consultation with the child and his or her parents or guardian;

(d) to apply to the court to discharge or vary the order if necessary;

(e) to take such other reasonable steps as may be necessary to reduce the harm to the child.

24. Duration of a supervision order.

(1) A supervision order shall be made for one year but may be extended for one further year on the application of the probation and social welfare officer.

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

(3) A supervision order shall terminate when the child to whom it relates attains eighteen years of age.

25. Probation and social welfare officer to enforce orders.

The duty to enforce a supervision order shall be vested in the probation and

social welfare officer who applies for the order.

26. Requirements as to change of address and visits.

A supervision order shall require the person with whom the child lives—

(a) to inform the supervisor of any change of his or her address;

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

Care order.

27. Care order.

(1) A family and children court may, on the application of a probation and social welfare officer or an authorised person, make a care order or an interim care order placing a child in the care of the warden of an approved home or with foster parents.

(2) An application for a care order may only be made—

(a) after all possible alternative methods of assisting the child have been tried without success and the significant harm from which the child is suffering or is likely to suffer requires his or her removal from where he or she is living; or

(b) the danger to which the child is exposed is so severe as to require his or her immediate removal from where he or she is living.

28. Purpose of a care order.

The object of a care order is—

(a) to remove a child from a situation where he or she is suffering or likely to suffer significant harm; and

(b) to assist the child and those with whom he or she was living or wishes to live to examine the circumstances that have led to the making of the order and to take steps to resolve or ameliorate the problem so as to ensure the child's return to the community.

29. Duration of care order.

(1) A care order shall be for a maximum period of three years or until the child reaches the age of eighteen years, whichever is the shorter.

(2) A care order shall be reviewed at least once in each year by the

probation and social welfare officer who may make recommendations as to steps to be taken having regard to the outcome of the review.

30. Duty to enforce a care order.

The duty to enforce the care order shall be vested in the probation and social welfare officer who applies for the order.

31. Parental responsibility of warden or foster parent.

(1) The warden of the approved home or the foster parent with whom the child is placed has parental responsibility for the child while the child is with him or her.

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

(3) The warden of the approved home or the foster parent with whom the child is placed shall ensure that the child's development while in the approved home or with a foster family, particularly his or her health and education, is attended to.

(4) It is the responsibility of the warden of the approved home to communicate with the parents or guardians of the child, to inform them of the child's progress and to arrange through the probation and social welfare officer for a trial return home by the child as soon as it is appropriate.

32. Special duties of the probation and social welfare officer in relation to care order.

(1) The probation and social welfare officer shall, before and after the termination of the care order, work with the parents, guardians or relatives, to whom the child is expected to return after the termination of the care order.

(2) The duties of the probation and social welfare officer under this section include child and family counselling, before, during and after the child's return and gaining the assistance of those in the community who can help in the process of resolving the problems which caused the care order to be made.

(3) In carrying out his or her duties under this section, the probation and social welfare officer shall bear in mind the wishes of the child.

(4) When a child is placed with a foster family, it shall be the responsibility of the probation and social welfare officer to communicate with the guardians or parents of the child, to inform them of the progress of the child and to arrange a trial period for the child to be at home as soon as it is appropriate.

(5) The probation and social welfare officer shall visit the child during the trial period at home and make plans for the future of the child in consultation with the foster parents.

33. Interim supervision order and interim care order.

(1) A family and children court may, on hearing information on oath by a probation and social welfare officer, or an authorised person, that a child is suffering or is likely to suffer significant harm, make an interim supervision order or an interim care order in respect of the child.

(2) An interim order may not be made unless a child is suffering or is likely to suffer significant harm as described in section 21.

(3) The maximum period for an interim order is three months, but the court may prescribe a lesser period.

(4) If the probation and social welfare officer wishes to recommend a full care or supervision order, he or she shall present a report to the court during the period of the interim order.

34. Exclusion order.

(1) A family and children court may, in addition to, or in proceedings for a supervision order, care order, interim supervision or interim care order, make an exclusion order prohibiting a named person from having contact with the child or with the child and persons looking after the child.

(2) Before making an exclusion order, a family and children court shall be satisfied that it is necessary for the protection of the child and to safeguard the child's welfare.

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

35. Enforcement of exclusion order.

(1) Any person who breaches an exclusion order commits an offence and shall be dealt with in accordance with this Act, except that the probation and welfare officer may proceed on behalf of the State against the offender.

(2) A family and children court may vary or discharge an exclusion order on the application of the person named in the order or of the child concerned.

36. Search and production order.

(1) A family and children court may, in proceedings for an application for a care order, on hearing information on oath, make a search and production order authorising the probation and social welfare officer, with or without a police officer, to enter any premises specified in the order to search for and remove to a place of safety, any child whom the probation and social welfare officer believes or suspects is suffering or is likely to suffer significant harm.

(2) Before searching the specified premises, the probation and social welfare officer holding the order shall inform the secretary for children's affairs of the local government council of the area.

(3) A child removed on a search and production order shall be produced in court within forty-eight hours after his or her removal.

37. Removal of a child under emergency protection.

(1) A probation and social welfare officer, any member of the police force or an authorised person who has reasonable grounds for believing that a child in his or her area is suffering or is likely to suffer significant harm, after notifying the secretary for children's affairs of the local government council in writing, may take the child and place him or her under emergency protection in a place of safety for a maximum period of forty-eight hours.

(2) The probation and social welfare officer or the authorised person may be assisted by a police officer in removing and taking the child to a

place of safety.

(3) As soon as possible, and in any case within the period of forty-eight hours referred to in subsection (1), the probation and social welfare officer, police officer or authorised person shall take the child to the secretary for children's affairs of the local government council of the area or before a family and children court and shall make a report, taking into account the wishes of the child.

(4) A person who places a child under emergency protection may, if he or she deems it necessary, ensure the provision of medical attention or treatment, including medical examination of the child.

(5) Whenever a child is placed under emergency protection, his or her parents or the persons with whom the child was living shall be informed as soon as practicable and shall be allowed to have contact with the child unless it is not in the interest of the child.

38. Offence to remove a child from a place of safety without authority.

A person who without reasonable cause removes a child placed under emergency protection from a place of safety without the authority of the person in whose custody the child is commits an offence and shall be dealt with in accordance with this Act.

39. Persons to apply for discharge or variation of supervision or care order.

Any of the following persons may apply for a supervision or care order to be discharged or varied—

(a) the child concerned;
(b) the child's parent or guardian;
(c) a person who has parental responsibility;
(d) a person with whom the child was living before the order was made;
(e) the probation and social welfare officer.

40. Duty of probation and social welfare officer to investigate.

Where a probation and social welfare officer is informed or has reasonable cause to believe that a child who lives or is found in his or her district is

suffering or is likely to suffer significant harm, he or she shall make inquiries to decide whether to act to safeguard or promote the child's welfare.

41. Requirement to disclose information.

When a family and children court is satisfied that information concerning a child is being withheld by any person, it may summon that person to disclose the information.

42. Medical examination of a child.

(1) The family and children court shall have power to order that a child be medically examined if there is any reason to believe that the child is in need of the examination, or for some reason requires a report concerning the child's physical or mental condition.

(2) The family and children court may request in writing a medical officer to conduct the examination.

PART VI—FOSTER CARE PLACEMENTS.

43. Conditions for foster care placements.

(1) Where a child has been committed to an approved home under a care order, the district probation and social welfare officer, in conjunction with the warden of the approved home, may place the child with a person who is willing to undertake the care and maintenance of the child, in this Part referred to as a "foster parent".

(2) An application to foster a child shall be made to the district probation and social welfare officer, except that a relative of a child without a parent or guardian may foster the child without first applying to the district probation and social welfare officer, and this Part shall not apply to him or her.

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

(4) Foster care placements shall be made in accordance with the rules set out in the Second Schedule to this Act.

(5) The Minister may, by statutory instrument, amend the rules in the Second Schedule to this Act.

PART VII—ADOPTION.

44. Jurisdiction.

(1) An application for an adoption order may be made—

(a) to a chief magistrate's court within the jurisdiction of which the applicant or the child resides where both the child and the applicant are citizens of Uganda;

(b) to the High Court where the child or the applicant is not a citizen of Uganda,

and the court may, subject to this Act, grant the application.

(2) A child need not be a Ugandan to be adopted.

Prerequisites for adoption.

45. Restrictions and conditions.

(1) An adoption order may be granted to a sole applicant or jointly to spouses where—

(a) the applicant or at least one of the joint applicants has attained the age of twenty-five years and is at least twenty-one years older than the child;

(b) in the case of an application by one of the spouses, the other has consented to the adoption.

(2) The court may dispense with the consent required under subsection (1)(b) if the spouse whose consent is required cannot be found or is incapable of giving consent, or the spouses are separated and living apart and the separation is likely to be permanent.

(3) An adoption order shall not be made in favour of a sole male applicant in respect of a female child, or in favour of a sole female applicant in respect of a male child, unless the court is satisfied that there are special circumstances that justify, as an exceptional measure, the making of an adoption order.

(4) The application shall not be considered unless the applicant has fostered the child for a period of not less than thirty-six months under the supervision of a probation and social welfare officer.

(5) The probation and social welfare officer shall be required to submit a report to assist the court in considering the application; and the court may, in addition, require some other person or the local authority to make a report in respect of the adoption application.

(6) Except where the application is by spouses jointly, an adoption order shall not be made authorising more than one person to adopt a child at the same time.

46. Intercountry adoption.

(1) A person who is not a citizen of Uganda may in exceptional circumstances adopt a Ugandan child, if he or she—

(a) has stayed in Uganda for at least three years;
(b) has fostered the child for at least thirty-six months under the supervision of a probation and social welfare officer;
(c) does not have a criminal record;
(d) has a recommendation concerning his or her suitability to adopt a child from his or her country's probation and welfare office or other competent authority; and
(e) has satisfied the court that his or her country of origin will respect and recognise the adoption order.

(2) For the purposes of an application to which this section applies, the probation and social welfare officer referred to in subsection (1)(b) shall be required to submit a report to assist the court in considering the application; and the court may, in addition, require some other person or authority to make a report in respect of the application.

(3) The restrictions and conditions in section 45, other than subsections (4) and (5), apply to an application to which this section relates.

47. Consent.

(1) The consent of the parents of the child, if known, is necessary for the adoption order to be made; but the consent may be revoked at any time before the pronouncement of the adoption order.

(2) The court may dispense with the consent if the parents are incapable of giving it.

(3) While an application for an adoption order is pending in the court, a parent who has given his or her consent to the adoption is not entitled, except with the leave of the court, to remove the child from the care and custody of the applicant.

(4) The court may refuse to grant leave to remove the child from the care and custody of the applicant under subsection (3) if it considers it significantly harmful to the welfare of the child.

(5) If in the view of the court a child is able to understand the adoption proceedings, then his or her views shall be taken into consideration.

(6) If the child is at least fourteen years of age, his or her consent to the adoption must be obtained unless it is impossible for him or her to express his or her wishes.

(7) Where it appears to the court that any person who is not the parent of the child has any rights or obligations in respect of the child under any order of the court or agreement or under customary law or otherwise, the court may require the consent of that person before the adoption order is made.

(8) The court may also request a probation and social welfare officer to prepare a report to assist it to determine whether any 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 before the making of the adoption order.

48. Functions of the court.

(1) The court shall, before making an adoption order, be satisfied that—

(a) every person whose consent is required and is not dispensed with has consented and understands the nature and effects of the adoption, namely, that it will permanently deprive that person of parental rights over the adopted child;

(b) the order if made will be for the welfare of the child, due

consideration being given to the wishes of the child having regard to his or her age and understanding;

(c) the applicant has not received or agreed to receive, and that no person has made or agreed to make to the applicant, any payment or other reward in consideration of the adoption; and

(d) the applicant or any person on behalf of the applicant has not paid or agreed to pay money or anything in place of money to the parent, guardian or any person in charge of the child in consideration of the adoption of the child.

(2) The court may, in an adoption order, include such terms and conditions as it thinks fit.

49. Rules as to the procedure for adoption.

(1) The Chief Justice may by statutory instrument make rules regarding all matters under this Part and the procedure to be followed by the court in adoption proceedings.

(2) Without prejudice to the general effect of subsection (1), the rules may provide for—

(a) the admission of documentary evidence of any consent to adoption;

(b) the admission of evidence, documentary or otherwise, to determine the age of the child;

(c) a probation and social welfare officer to prepare a report for the court to help determine whether the adoption order will be for the welfare and best interests of the child;

(d) the conduct of adoption societies or similar bodies in placing children for adoption.

50. Appeals.

(1) Any person aggrieved by any decision of a chief magistrate's court or the High Court under this Part—

(a) may, in the case of a decision of a chief magistrate's court, appeal to the High Court against the decision;

(b) in the case of a decision of the High Court, appeal to the Court of Appeal and thereafter the Supreme Court against the decision.

(2) For the avoidance of doubt, a person aggrieved by a decision of

the High Court on an appeal from the chief magistrate's court, may appeal against the decision to the Court of Appeal and thereafter to the Supreme Court.

51. Effect of an adoption order.

Upon an adoption order being made—

(a) all rights, duties, obligations and liabilities of the parents and guardians in relation to the future custody, maintenance and education of the child, including all rights to appoint a guardian and to consent or give notice of consent to marriage, are extinguished; and

(b) there shall vest in, and be exercised by, and enforceable against the adopter all such rights, duties, obligations and liabilities in relation to the future custody, maintenance and education of the child as would vest in him or her if the child were the natural child of the adopter born to him or her in lawful wedlock.

52. Devolution of property.

(1) Where an adopter dies intestate, his or her property shall devolve in all respects as if the adopted child were the natural child of the adopter.

(2) If it appears to the High Court on a claim made, that the disposition of property devolving on an intestacy has been exercised unfairly against an adopted child, the court may order such provision as the court thinks equitable to be made for him or her out of the property devolving on the intestacy in accordance with the law.

53. Wills.

(1) In any testamentary disposition of property, whether or not in writing, made after the date of an adoption order, any reference, whether expressed or implied, to the child or children of the adopter shall be construed as including a reference to the adopted child.

(2) Where any disposition made by the adopter prior to the adoption order makes no provision for the adopted child, the adopted child may apply to the court to vary the disposition by ordering such provision as the court thinks equitable to be made for him or her.

(3) For the avoidance of doubt, an adopted person shall not be entitled to inherit from or through his or her natural parents if they die intestate.

54. Adopted children register.

The registrar of births and deaths shall maintain an adopted children register in which shall be registered particulars of adoptions under this Act.

55. Disclosure of adoption.

(1) Where a child has attained the age of eighteen years, or, at an earlier age, on the child's own request or at the discretion of the adopter, the child shall be informed by the adopter of the identity of his or her natural parents unless it is not in the child's best interests to do so.

(2) The adopter parent shall inform the child that he or she is adopted as soon as the child is of an age of understanding.

PART VIII—APPROVED HOMES.

56. Minister to approve homes.

A Government or nongovernmental home set up for the purposes of caring for children shall first be approved by the Minister as fit for that purpose.

57. Admission of children to home.

An approved home shall only receive children in the following two ways—

(a) in an emergency situation from a police officer, a probation and social welfare officer or any other person for a maximum period of forty-eight hours pending production of the child in court; or

(b) on an interim care order or a care order.

58. Purpose of an approved home.

(1) An approved home shall provide substitute family care for a child until such time as the parents of the child are able to provide adequate care to meet his or her basic needs or the child completes three years in the home or attains the age of eighteen years, whichever is earlier.

(2) It shall be the responsibility of the staff of the approved home, the probation and social welfare officer and any other person to assist the child to become reunited with his or her parents or guardians.

(3) After a child has been returned home from an approved home, the probation and social welfare officer shall keep in regular contact with the child and his or her family until the completion of the order or its discharge.

(4) Where a child is unable to return to his or her parents or to go to foster parents or has no parent, nor a foster parent, he or she shall be encouraged and assisted by the approved home and the probation and social welfare officer to become independent and self-reliant.

59. Parental responsibility of warden and staff of approved homes.

While a child is in an approved home on a care order, the warden and staff of the home have parental responsibility for the child.

60. Contact with parents and relatives.

(1) The approved home and the probation and social welfare officer shall maintain contact with the parents or relatives of a child in the home as well as maintain contact between the child and the parents or relatives of the child.

(2) A named person may be refused contact by an exclusion order made by the court during proceedings on an application for a care order, or later on the application of the child or the probation and social welfare officer to the court when such contact is not in the interest of the child.

(3) Any person refused contact with the child or the child himself or herself may apply to the court to have the order varied or discharged.

61. Removal of child from approved home.

A person who removes a child from an approved home without reasonable cause commits an offence and shall be dealt with in accordance with this Act.

62. Recovery order.

(1) When a court has been informed on information on oath that a

child has been removed unlawfully from an approved home, it may make a recovery order.

(2) A recovery order may—

(a) direct any person who is in possession of the child to produce him or her on request to any authorised person;

(b) require removal of the child by any authorised person;

(c) require any person who has information leading to the child's whereabouts to disclose it;

(d) authorise search of any premises where the child is believed to be staying; and

(e) specify the name of the child in question and the person who has the current main parental responsibility.

63. Application for a recovery order.

Any of the following persons may apply for a recovery order—

(a) a person with parental responsibility for the child; or

(b) the probation and social welfare officer.

64. Escape from approved home or foster parent.

(1) A child who runs away from an approved home to which he or she has been committed or from a person in whose care he or she has been placed on emergency or committed by the court on a care order may, pending investigation—

(a) be brought back to the approved home or the person from which or from whom he or she has run away; or

(b) be put in an alternative approved home or place of safety.

(2) As soon as possible, the child shall be interviewed by the probation and social welfare officer or an authorised person who shall also interview the warden of the home or the person in whose care the child had been placed.

(3) The child may then be returned to where he or she had been placed or, if that is not in the child's best interests, he or she may be moved by the probation and social welfare officer under a care order or otherwise returned to court for variation or discharge of the order.

65. Court's power to order parent or guardian to contribute.

(1) Where an approved home has custody of a child who has a parent or guardian, the court may order the parent or guardian to contribute towards the child's maintenance.

(2) The amount contributed shall be reasonable and within the means of the parent or guardian and may be varied by the court if there is a change in that person's circumstances.

(3) A contribution order made under this section shall remain in force as long as the child is in the home; but a person contributing may, at any time, apply to the court for the order to be varied or discharged on the ground that his or her circumstances have changed since the order was made.

66. Rules for approved homes.

The Minister may make rules for carrying this Part into effect and in particular for—

(a) prescribing the form of application for an approved home;
(b) prescribing requirements as to the accommodation and equipment to be provided in homes;
(c) prescribing the medical arrangements to be made for protecting the health of the children in the approved homes;
(d) regulating the management and discipline of an approved home; and
(e) regular inspection of the home.

PART IX—PARENTAGE OF CHILDREN.

67. Declaration of parentage.

A person who is—

(a) the mother of a child;
(b) the father of a child;
(c) the guardian of a child;
(d) the child himself or herself through a next of friend,

may make an application for a declaration of parentage by complaint on oath to a family and children court having jurisdiction in the place where the applicant resides for summons to be served on—

(e) the man alleged to be the father of the child; or

(f) the woman alleged to be the mother of the child.

68. Application for declaration.

(1) An application for a declaration of parentage may be made—
(a) during pregnancy;
(b) at any time before the child attains eighteen years of age;
(c) within three years after the death of the alleged father or mother.

(2) With leave of the family and children court, an application for a declaration of parentage may be made at any time after the three years specified in subsection (1)(c).

(3) In exercising its discretion under subsection (2), the court shall primarily consider—
(a) the welfare of the child;
(b) the time of knowledge of the alleged father or mother or of the birth of the child, as the case may be, by the applicant;
(c) the conduct of the alleged father or mother where he or she knew of the birth of the child alleged to be his or her child, or his or her conduct towards any other person having the custody or control of the child.

(4) An application for a declaration of parentage may be made whether the child or the alleged father or mother is in or outside Uganda.

69. Proceedings on application for declaration of parentage.

(1) The family and children court to which an application is made for declaration of parentage shall issue a summons to the person alleged to be the father or mother of the child to appear before the court on a day named in the summons.

(2) On the appearance of the person summoned, or on proof that the summons was duly served on him or her or left at his or her place of abode seven days or more before the hearing, the court shall hear the evidence of the applicant and shall also hear any evidence tendered by or on behalf of the alleged father or mother.

(3) If the evidence of the applicant is corroborated in some material particular by other evidence to the satisfaction of the court, the court may

adjudge the person summoned to be the mother or father of the child, as the case may be.

(4) In proceedings for the declaration of parentage, the court may, on the application of any party to the proceedings or on its own motion, make an order, upon such terms as may be just, requiring any person to give any evidence which may be material to the question, including a blood sample for the purpose of blood tests.

(5) Any person sought to be tested must be made a party to the proceedings.

70. Proof of parentage.

The burden to prove parentage shall lie on the person alleging it.

71. Prima facie and conclusive evidence of parentage.

(1) Where the name of the father or the mother of a child is entered in the register of births in relation to a child, a certified copy of that entry shall be prima facie evidence that the person named as the father is the father of the child or that the person named as the mother is the mother of the child.

(2) An instrument signed by the mother of a child and by any person acknowledging that he is the father of the child, and an instrument signed by the father of a child and by any person acknowledging that she is the mother of the child shall—

(a) if the instrument is executed as a deed; or

(b) if the instrument is signed jointly or severally by each of those persons in the presence of a witness,

be prima facie evidence that the person named as the father is the father of the child or that the person named as the mother is the mother of the child.

(3) An order of a court for maintenance made against a person under any written law shall be prima facie evidence of parentage in subsequent proceedings, whether or not between the same parties.

(4) A declaration of parentage by the court under this Part shall, for all purposes, be conclusive proof of parentage.

(5) An order made by a competent court outside Uganda in any

affiliation or similar proceedings declaring or having the effect of declaring a person to be the father of a child or the mother of a child shall be prima facie evidence that the person mentioned in that order is the father of the child or the mother of the child.

(6) A reference, express or implied in a will written or oral, of any person to a child as his or her son or daughter, as the case may be, is prima facie evidence that that person is the father of that child or is the mother of the child.

(7) A statement, written or oral, by a deceased person confided to a person in a position of authority indicating that the deceased is or was the father or the mother of a particular child is prima facie evidence that the deceased person was the father or the mother of the child.

(8) For the purposes of this section, "a person in a position of authority" means a person holding a position in society carrying responsibility in matters of succession, administration of justice or law enforcement and includes a minister of religion and any person placed in such a position of interest in the welfare of the child either because of family relationship or by appointment as a guardian or foster parent by the deceased.

72. Effect of declaration of parentage.

(1) A declaration of parentage by a court shall have the effect of establishing a blood relationship of father and child or of mother and child and, accordingly, the child shall be in the same legal position towards the father or the mother as a child actually born in lawful wedlock.

(2) A declaration of parentage shall not by itself confer rights of custody of the child upon the declared father or mother.

73. Custody of children.

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

(2) The court may, at any time, revoke the grant of custody to one person and make the grant to another person, institution or organisation.

(3) In reaching its decision under subsection (1) or (2), the court shall primarily consider the welfare of the child.

(4) A person who unlawfully removes a child from the lawful custody of another person, institution or organisation commits an offence and shall be dealt with in accordance with this Act.

74. Appeals.

A party to proceedings for a declaration of parentage may appeal to a chief magistrate's court against the finding of a family and children court; and the appellate court may confirm or revoke the declaration or make any other lawful order that it thinks fit.

75. Revocation of declaration of parentage.

A declaration of parentage may be revoked for sufficient cause by the family and children court on the application of the person against whom it was made.

Maintenance orders.

76. Application for child maintenance order.

(1) Any person who has custody of a child and who is—
(a) the mother of the child;
(b) the father of the child; or
(c) the guardian of the child,
may make an application for a maintenance order against the father or mother of the child, as the case may be.

(2) A child in respect of whom a declaration of parentage has been made may also make an application through a next of friend for a maintenance order.

(3) An application for a maintenance order may be made—
(a) during a subsisting marriage;
(b) during proceedings for divorce, separation or nullity of marriage;
(c) during separation;
(d) during proceedings for declaration of parentage;
(e) after a declaration of parentage has been made.

(4) The application may be made—

(a) at any time during pregnancy;

(b) before the child attains eighteen years of age.

(5) An application for a maintenance order shall be made by complaint on oath to a family and children court having jurisdiction in the place where the applicant resides, and the summons shall be served on—

(a) the father of the child; or

(b) the mother of the child.

(6) The court shall issue a summons to the father or mother of the child to appear before the court on a day named in the summons.

(7) On the appearance of the person summoned or on proof that the summons was duly served on him or her, seven days or more before the hearing, the court shall hear the evidence of the applicant and shall also hear any evidence tendered by or on behalf of the father or mother; and the court may then, having regard to all the circumstances of the case, proceed to make an order against the father or mother for the payment to the applicant of—

(a) a monthly sum of money as may be determined by the court, having regard to the circumstances of the case and to the financial means of the father or mother, for the maintenance of the child;

(b) the funeral expenses of the child if the child has died before the making of the order; and

(c) the costs incurred in obtaining the order.

(8) Maintenance shall include feeding, clothing, education and the general welfare of the child.

(9) If the court thinks fit, it may, in place of a monthly payment, order that a lump sum determined by the court be paid into court and that the sum shall be expended on the maintenance of the child.

77. Warrant to attach earnings or levy the distress for the recovery of maintenance money.

If at any time after the expiration of one month from the making of a maintenance order, it is made to appear to a magistrate on oath that any sum to be paid under the order has not been paid, the magistrate may, by warrant

signed by him or her, cause the person against whom the order was made to be brought before him or her; and if that person neglects or refuses to pay the sum due from him or her under the order, the magistrate may, by warrant signed by him or her direct—

(a) that an attachment of earnings be made; or

(b) that the sum due, together with any costs incurred, be recovered by distress and sale or redistribution of the property of the father or mother unless he or she gives sufficient security by way of recognisance or otherwise to the satisfaction of the court for his or her appearance before the court on a day appointed for the return of the warrant of distress, but not more than seven days from the taking of the security.

78. Variation of maintenance orders.

(1) On the application at any time by the applicant for the maintenance order or by the person against whom the maintenance order is made, the court may, after inquiring into the circumstances, make an order either increasing or decreasing the amount of money previously ordered to be paid under the order.

(2) An order for maintenance against a father or mother shall cease to have effect on custody of the child being granted to that father or mother or other person in his or her place by the court.

(3) An order for maintenance may be made and enforced against the estate of a deceased person who has been declared the father or mother of the child under a declaration of parentage.

(4) Where a declaration of parentage has been made, an order for recovery of arrears of expenses incurred on the maintenance of a child may be made even after the death of the child.

79. Money to be paid to applicant or custodian.

(1) All money payable under a maintenance order shall be due and payable to the applicant unless a custodian has been appointed, in which case, the money shall be due and payable to the custodian.

(2) The court may also order that the money shall be paid into court and then paid to the applicant or custodian in a manner and subject to any

condition as the court may direct.

80. Appointment of custodian.

(1) Whenever a maintenance order is made against the father or mother, a court may, at the time of making the order or from time to time thereafter, on being satisfied that the applicant—

(a) is not a fit and proper person to have custody of the child; or

(b) is dead, or has become of unsound mind or is in prison,

appoint a person who is willing to have custody of the child to be the custodian of the child.

(2) The appointment of a custodian may be made on the application of a probation and social welfare officer or of the person having custody of the child or of the person against whom the maintenance order is made.

(3) The appointment of a custodian may be revoked and another person appointed to have custody of the child.

(4) A custodian shall have power to apply for the recovery of all payments in arrears becoming due under a maintenance order as any other applicant would have been entitled to do.

(5) Where any order of appointment or of revocation of a custodian is made, the court may also order the child to be delivered to the person appointed to have custody of the child.

(6) If a child in respect of whom a maintenance order subsists is wrongfully removed from the person in whose custody he or she is, the court may, on the application of the custodian, make an order that the custody of the child be recommitted to the applicant.

(7) Any person who contravenes an order made under subsection (6) commits an offence and shall be dealt with in accordance with this Act.

81. Misapplying maintenance money.

A person in whose custody a child is commits an offence if he or she misapplies any money paid for the maintenance of the child, and the grant of custody may be varied in the best interests of the child.

82. Cessation of order.

A maintenance order shall cease to have any force or validity on the child attaining eighteen years.

83. Rules in respect of fees and costs.

(1) The Rules Committee may make rules prescribing the fees and costs payable in any proceedings for application for an order under this Part.

(2) The rules made under subsection (1) shall include provision for the remission of the fees and costs when the person liable to pay them does not have the means to do so.

Maintenance during divorce, separation or nullity.

84. Maintenance during divorce, separation or nullity.

(1) In all cases of divorce, separation or nullity, both parents shall continue to maintain and educate their child.

(2) Where the child is in the custody of one parent, the other parent shall have reasonable access to the child.

85. Variation of custody.

Where the court is satisfied on information from a probation and social welfare officer or an official of a local government council that the parent who has custody of the child is wilfully neglecting or mistreating the child, custody shall be granted to the other parent.

86. Upbringing of a child.

In separation, divorce and nullity cases there shall be joint consultation between the parents in bringing up the child where the circumstances permit and wherever possible.

87. Unfit parents.

Where the court during divorce, separation or nullity proceedings finds that the child is suffering or is likely to suffer significant harm as a result of both

parents being unfit to have custody of the child, the court shall place the child in the custody of a fit person; but the parents shall be allowed to have reasonable access to their child unless it is not in the best interests of the child.

PART X—CHILDREN CHARGED WITH OFFENCES.

88. Age of criminal responsibility.

The minimum age of criminal responsibility shall be twelve years.

89. Arrest and charge of children.

(1) Where a child is arrested, the police shall under justifiable circumstances caution and release the child.

(2) The police shall be empowered to dispose of cases at their discretion without recourse to formal court hearings in accordance with criteria to be laid down by the Inspector General of Police.

(3) As soon as possible after arrest, the child's parents or guardians and the secretary for children's affairs of the local government council for the area in which the child resides shall be informed of the arrest by the police.

(4) The police shall ensure that the parent or guardian of the child is present at the time of the police interview with the child except where it is not in the best interests of the child.

(5) Where a child's parent or guardian cannot be immediately contacted or cannot be contacted at all, a probation and social welfare officer or an authorised person shall be informed as soon as possible after the child's arrest so that he or she can attend the police interview.

(6) Where a child is arrested with or without a warrant and cannot be immediately taken before a court, the police officer to whom the child is brought shall inquire into the case and, unless the charge is a serious one, or it is necessary in the child's interests to remove him or her from association with any person, or the officer has reason to believe that the release of the child will defeat the ends of justice, shall release the child on bond on his or her own recognisance or on a recognisance entered into by the parent of the child or other responsible person.

(7) Where release on bond is not granted, a child shall be detained in police custody for a maximum of twenty-four hours or until the child is taken before a court, whichever is sooner.

(8) No child shall be detained with an adult person.

(9) A female child shall, while in custody, be under the care of a woman officer.

Detention pending trial.

90. Bail.

(1) Where a child appears before a court charged with any offence, the magistrate or person presiding over the court shall inquire into the case and unless there is a serious danger to the child, release the child on bail—

(a) on a court bond on the child's own recognisance;

(b) with sureties, preferably the child's parents or guardians who shall be bound on a court bond, not cash.

(2) If bail is not granted, the court shall record the reasons for refusal and inform the applicant of his or her right to apply for bail to a chief magistrate's court or to the High Court.

91. Remand.

(1) Where a child is not released on bail, the court may make an order remanding or committing him or her in custody in a remand home to be named in the order, situated in the same area as the court making the order.

(2) If there is no remand home within a reasonable distance of the court, the court shall make an order as to the detention of the child in a place of safe custody as it deems fit.

(3) For the purposes of this section, a place of safe custody shall be a place which the court considers fit to provide good care for the child and assures that the child shall be brought to court when required and shall not associate with any adult detainee.

(4) The local government council shall provide an appropriate place

of custody; and before making an order remanding or committing a child in custody, the court shall ascertain that there is a place readily available.

(5) Remand in custody shall not exceed—
(a) six months in the case of an offence punishable by death; or
(b) three months in the case of any other offence.

(6) No child shall be remanded in custody in an adult prison.

(7) A child who escapes from a remand home or other place of safe custody in which he or she is detained may be arrested with or without warrant and returned to that place.

(8) Pending the establishment of remand homes, the Minister may declare any establishment as a remand home.

(9) Whenever possible, the court shall consider alternatives to remand such as close supervision or placement with a fit person determined by the court on the recommendation of a probation and social welfare officer.

Role of the executive committee courts.

92. Role of executive committee courts.

(1) Subject to this Act, all causes and matters of a civil nature concerning children shall be dealt with by the village executive committee court where the child resides or where the cause of action arises.

(2) A village executive committee court shall have the criminal jurisdiction set out in the Third Schedule to this Act in a case involving a child.

(3) A village executive committee court shall be the court of first instance in respect of the criminal offences referred to in subsection (2) involving children.

(4) A village executive committee court may, notwithstanding any penalty prescribed by the Penal Code Act in respect of the offences stated in subsection (2), make an order for any of the following reliefs in respect of a child against whom the offence is proved—
(a) reconciliation;

(b) compensation;
(c) restitution;
(d) apology; or
(e) caution.

(5) In addition to the reliefs under subsection (4), the court may make a guidance order under which the child shall be required to submit himself or herself to the guidance, supervision, advice and assistance of a person designated by the court.

(6) A guidance order shall be for a maximum period of six months.

(7) An executive committee court shall not make an order remanding a child in custody in respect of any child appearing before the court.

(8) Proceedings in respect of a child appearing before an executive committee court shall be in accordance with the procedure laid down by the Executive Committees (Judicial Powers) Act, except that the court shall have due regard to provisions set out in section 16(1)(b), (c), (d) and (f) of this Act.

Family and children court.

93. Criminal jurisdiction of family and children court.

A family and children court shall have jurisdiction to hear and determine all criminal charges against a child except—
(a) any offence punishable by death;
(b) any offence for which a child is jointly charged with a person over eighteen years of age.

94. Orders of family and children court.

(1) A family and children court shall have the power to make any of the following orders where the charges have been admitted or proved against a child—
(a) absolute discharge;
(b) caution;
(c) conditional discharge for not more than twelve months;
(d) binding the child over to be of good behaviour for a maximum of twelve months;

(e) compensation, restitution or fine, taking into consideration the means of the child so far as they are known to the court; but an order of detention shall not be made in default of payment of a fine;

(f) a probation order in accordance with the Probation Act for not more than twelve months, with such conditions as may be included as recommended by the probation and social welfare officer; but a probation order shall not require a child to reside in a remand home;

(g) detention for a maximum of three months for a child under sixteen years of age and a maximum of twelve months for a child above sixteen years of age and in the case of an offence punishable by death, three years in respect of any child.

(2) For the purposes of subsection (1)(g), detention means placement in a centre designated for that purpose by the Minister in such circumstances and with such conditions as may be recommended to the court by the probation and social welfare officer.

(3) Where a child has been remanded in custody prior to an order of detention being made in respect of the child, the period spent on remand shall be taken into consideration when making the order.

(4) Detention shall be a matter of last resort and shall only be made after careful consideration and after all other reasonable alternatives have been tried and where the gravity of the offence warrants the order.

(5) Before making a detention order, the court shall be satisfied that a suitable place is readily available.

(6) No child shall be detained in an adult prison.

(7) The order under which a child is committed to a detention centre shall be delivered with the child to the person in charge of the detention centre and shall be sufficient authority for the child's detention in accordance with the terms of the order.

(8) A child in respect of whom a detention order is made shall, while detained under the order and while being conveyed to and from the detention centre, be deemed to be in legal custody.

(9) No child shall be subject to corporal punishment.

95. Probation and social welfare officer's report.

(1) If the court, after a charge has been admitted or proved, is considering making a detention or probation order, a written social background report shall be prepared by a probation and social welfare officer and shall be taken into account by the court before making the order.

(2) The report shall include, among other things, the social and family background, the circumstances in which the child is living and the conditions under which the offence was committed.

(3) The court shall ensure that the contents of the report are made known to the child and that a copy of the report is provided for the child or the child's legal representative.

(4) In all other cases, the court may request an oral report.

96. National Rehabilitation Centre for Children and other centres.

(1) The Minister shall establish a National Rehabilitation Centre for Children and such other centres as he or she may deem necessary which shall each be a place for the detention, rehabilitation and retraining of children committed there.

(2) Pending the establishment of the National Rehabilitation Centre for Children, the school known as Kampiringisa Boys' Approved School shall be used as the detention centre.

(3) The detention centre shall have a separate wing for girls.

97. Committee of visitors; rules governing a centre; assisting escape or preventing return to a centre.

(1) The Minister shall appoint fit and proper persons to periodically visit the detained children and inspect the detention centre, and those persons shall be referred to as the "committee of visitors" under this Act.

(2) The Minister by statutory instrument shall make rules to govern the management of the detention centre.

(3) A person who knowingly assists or induces a child to escape or knowingly harbours or conceals a child who has escaped or prevents the child from returning to the detention centre commits an offence and shall be dealt with in accordance with this Act.

98. Aftercare.

Before a child is released from detention, the probation and social welfare office and the authorities in the detention centre shall discuss the period of aftercare with the child, but in all circumstances it shall not exceed twelve months after the child's release from detention.

99. Duration of cases.

(1) Every case shall be handled expeditiously and without unnecessary delay.

(2) Where the case of a child appearing before a family and children court is not completed within three months after the child's plea has been taken, the case shall be dismissed, and the child shall not be liable to any further proceedings for the same offence.

(3) Where, owing to its seriousness, a case is heard by a court superior to the family and children court, the maximum period of remand for a child shall be six months, after which the child shall be released on bail.

(4) Where a case to which subsection (3) applies is not completed within twelve months after the plea has been taken, the case shall be dismissed and the child shall be discharged and shall not be liable to any further proceedings for the same offence.

100. Remission of cases.

(1) Where it appears to a court other than a family and children court, that a person charged before it with an offence is a child, the court shall remit the case to a family and children court.

(2) Subsection (1) does not apply where a child is charged with an offence punishable by death or the child is jointly charged with an adult.

(3) Where a child is tried alone or jointly with an adult in a court superior to a family and children court, the child shall be remitted to a family and children court for an appropriate order to be made if the offence is proved against him or her.

(4) A court making an order remitting a case to a family and children court may give directions with respect to the custody or release of the child on bond or bail until he or she can be brought before the family and children court.

(5) A certificate stating the nature of the offence, the stage at which the case is and that the case has been remitted to the family and children court shall be forwarded to the family and children court.

101. Restriction on use of certain words.

The words "conviction" and "sentence" shall not be used in reference to a child appearing before a family and children court; and instead, the words "proof of an offence against a child" and "order" shall be substituted for conviction and sentence respectively.

102. Protection of privacy and restriction on publication.

(1) The child's right to privacy shall be respected throughout the court proceedings in order to avoid harm being caused to him or her by undue publicity; and no person shall, in respect of a child charged before a family and children court, publish any information that may lead to the identification of the child except with the permission of court.

(2) Any person who contrary to subsection (1) publishes—

(a) the name or address of the child;

(b) the name or address of any school which the child has been attending; or

(c) any photograph or other matter likely to lead to the identification of the child,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment not exceeding six months or to both.

103. Children in magistrate's court.

A child jointly charged with a person over eighteen years of age may be tried in a magistrate's court.

104. Children in the High Court.

(1) A child shall be tried in the High Court for an offence with which the child is jointly charged with a person over eighteen years of age and for which only the High Court has jurisdiction.

(2) Where a child is tried jointly with an adult in the High Court, the child shall be remitted to the family and children court for an appropriate order to be made if the offence is proved against the child.

(3) In any proceedings before the High Court in which a child is involved, the High Court shall have due regard to the child's age and to the provisions of the law relating to the procedure of trials involving children.

105. Appeals.

An appeal shall lie in a case involving the trial of a child from—

(a) a village executive committee court to a parish and subcounty executive committee court;
(b) a subcounty executive committee court to a family and children court;
(c) a family and children court to a chief magistrate's court;
(d) a chief magistrate's court to the High Court;
(e) the High Court to the Court of Appeal;
(f) the Court of Appeal to the Supreme Court.

PART XI—MISCELLANEOUS.

106. Decriminalisation of certain offences in relation to children.

The following provisions of the Penal Code Act shall cease to apply to children—

(a) section 167(1)(b); and
(b) section 168.

107. Inquiry as to age of person appearing to the court to be below eighteen years of age.

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

(2) In making the inquiry, the court shall take any evidence, including medical evidence, which it may require.

108. Presumption of age by court conclusive evidence of that person's age.

(1) An order or judgment of the court shall not be invalidated by any subsequent proof that the age of the person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of that person shall be deemed to be that person's true age for the purposes of the proceedings.

(2) A certificate signed by a medical officer as to the age of a person under eighteen years of age shall be evidence of that age.

109. General penal provision for offences under the Act.

A person who contravenes any of the provisions of this Act commits an offence and, with the exception of a person convicted under section 98, is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding six months or to both.

110. Regulations.

(1) The Minister may make regulations generally for better carrying out the provisions and purposes of this Act.

(2) Regulations made under subsection (1) may prescribe in relation to any contravention of the regulations any penalty not exceeding a fine of five hundred thousand shillings or two years' imprisonment or both and may provide an additional penalty for continuing or repeated contraventions.

(3) The regulations may also, subject to this Act, provide for the

charging of fees for the doing of anything under this Act.

111. Enforcement of judgments, decisions and orders of the family and children court.

Subject to this Act, any enactment applicable to the enforcement of the judgments, decisions and orders of a magistrate's court shall, subject to such modifications as may be necessary having regard to this Act, apply to judgments, decisions and orders of a family and children court.

112. Modification of existing enactments.

Any enactment in existence at the commencement of this Act shall have effect with such modifications as may be necessary to give effect to this Act.

113. Transitional provisions regarding approved schools and reformatory schools.

Notwithstanding the repeal of the Approved Schools Act and the Reformatory Schools Act, where immediately before the commencement of this Act there are any children in any institutions under either of those Acts, the Minister, in consultation with the Minister responsible for internal affairs, shall make such arrangements as may be necessary for the winding up of those institutions and otherwise for the welfare of the children, taking into account the provisions of this Act and, in particular, taking into account the principle that in all matters concerning the child, the best interests of the child shall be the paramount consideration.

SCHEDULES

First Schedule.

s. 3.

Guiding principles in the implementation of the Act.

1. Welfare principle.

Whenever the State, a court, a local authority or any person determines any question with respect to—

(a) the upbringing of a child; or

(b) the administration of a child's property or the application of any income arising from it,

the child's welfare shall be of the paramount consideration.

2. Time being of the essence.

In all matters relating to a child, whether before a court of law or before any other person, regard shall be had to the general principle that any delay in determining the question is likely to be prejudicial to the welfare of the child.

3. Criteria for decisions.

In determining any question relating to circumstances set out in paragraph 1(a) and (b), the court or any other person shall have regard in particular to—

(a) the ascertainable wishes and feelings of the child concerned considered in the light of his or her age and understanding;

(b) the child's physical, emotional and educational needs;

(c) the likely effects of any changes in the child's circumstances;

(d) the child's age, sex, background and any other circumstances relevant in the matter;

(e) any harm that the child has suffered or is at the risk of suffering;

(f) where relevant, the capacity of the child's parents, guardians or others involved in the care of the child in meeting his or her needs.

4. Rights of the child.

A child shall have the right—

(a) to leisure which is not morally harmful and the right to participate in sports and positive cultural and artistic activities;

(b) to a just call on any social amenities or other resources available in any situation of armed conflict or natural or man-made disasters;

(c) to exercise, in addition to all the rights stated in this Schedule and this Act, all the rights set out in the United Nations Convention on the Rights of the Child and the Organisation for African Unity Charter on the Rights and Welfare of the African Child with appropriate modifications to suit the circumstances in Uganda, that are not specifically mentioned in this Act.

Second Schedule.

s. 43.

Foster Care Placement Rules.

Arrangement of Rules.

Rule

1. Title.
2. Interpretation.
3. Application of rules.
4. Application to foster a child.
5. Persons qualified to foster children.
6. Procedure before placement.
7. Religion.
8. Cultural background.
9. Undertaking by foster parents.
10. Medical arrangements.
11. Supervising officer.
12. Visits during placement.
13. Termination of placement.
14. Illness.
15. Death.
16. Records.

Schedules

Schedule Forms.

1. Title.

These Rules may be cited as the Foster Care Placement Rules.

2. Interpretation.

In these Rules, unless the context otherwise requires—

(a) "approved home" means a home approved by the Minister;
(b) "child" means a person below the age of eighteen years;
(c) "commissioner" means the Commissioner for Social Welfare;
(d) "foster child" means a child placed with a foster parent or foster family;
(e) "foster family" means a family in which a child is placed;
(f) "foster parent" means a person with whom a child is placed under these Rules;
(g) "supervising officer" means the district probation and social welfare officer or a responsible person delegated by him or her to act on his or her behalf.

3. Application of rules.

These Rules apply to the placement of a child with foster parents by a probation and social welfare officer.

4. Application to foster a child.

Any person interested in fostering a child shall complete the application form specified in Form 1 of the Schedule to these Rules and submit it to the district probation and social welfare officer or to the warden of an approved home.

5. Persons qualified to foster children.

(1) The following persons may apply to be foster parents—
(a) a husband and wife, but if a man has more than one wife, the name of the wife who is to be the foster mother shall be clearly stated;
(b) a single woman not below the age of twenty-one years; or
(c) a single man not below the age of twenty-one years.

(2) A single man may not foster a female child under this Act.

(3) A non-Ugandan citizen residing in Uganda is qualified to apply to be a foster parent subject to subrule (1).

6. Procedure before placement.

(1) A child shall not be placed with a foster parent who is not a relative of the child unless—

(a) a probation and social welfare officer has interviewed the prospective foster parent and assessed that he or she is a suitable person to foster a child;

(b) a probation and social welfare officer has visited the home of the prospective foster parent and has confirmed in writing that it is likely to meet the requirements of the particular child and that the conditions in it are satisfactory;

(c) two persons who know the prospective foster parent well have vouched for his or her good character and suitability to care for the child, and one of the two persons shall be the secretary for children's affairs of the village local council or the village chief;

(d) it has been established from the secretary for children's affairs of the council or the person in charge of any government medical unit in the area that no person in the household of the prospective foster parent is suffering from any physical or mental illness likely to affect the child adversely;

(e) it has been established from the secretary for children's affairs or from the officer in charge of the police station in the area that no person in the home has been convicted of a serious criminal offence rendering it undesirable for the child to associate with that person; and

(f) the wishes of the child so far as can be ascertained concerning the proposed fostering have been ascertained and have, so far as practicable, been taken into account.

(2) For record purposes, the probation and social welfare officer concerned with the fostering shall make a written report which shall contain the following—

(a) the information required in subrule (1) of this rule;

(b) details of the name, approximate age, religion and employment of the prospective foster parents; and

(c) the number and approximate ages of other persons living in the household of the prospective foster parent.

(3) The report shall be in Form 3 as specified in the Schedule and shall be filed in the district probation and social welfare office.

7. Religion.

(1) Where a child's religion is known, the child shall be placed with a foster parent who is of the same religion as the foster child; but where that is not possible, the foster parent shall undertake to bring up the child in accordance with the religious denomination of the child.

(2) Where a child's religion is not known, the child shall be placed with a foster parent who shall undertake to bring up the child in accordance with the religious denomination of the foster parent.

8. Cultural background.

Wherever possible, a child shall be placed with a foster parent who has the same cultural background as the child's parents and who originates from the same area in Uganda as the parents of the child.

9. Undertaking by foster parents.

(1) Each foster parent shall, on the day on which the child is placed with him or her, sign the undertaking specified in Form 2 in the Schedule in the presence of a witness.

(2) Where the prospective foster parent cannot read the English language sufficiently to understand the nature of the undertaking, the supervising officer or the authorised officer concerned shall cause the undertaking to be explained to the prospective foster parent in a language which he or she understands and shall certify to that effect as prescribed in Form 2 of the Schedule.

(3) Each foster parent shall be given a copy of the undertaking signed by him or her.

(4) A copy of the undertaking shall also be sent to the district probation and social welfare office and to the commissioner.

10. Medical arrangements.

(1) Except in the case of an emergency, a child shall not be placed with a foster parent unless he or she has been examined by a qualified medical practitioner or such other medical personnel not below a rank approved by the director of medical services, and the person examining the child has reported in writing on the child's physical and mental condition.

(2) In the case of an emergency, the examination report required under subrule (1) of this rule shall be made within four weeks after the placing.

(3) When a foster placement begins, the person placing the child with the foster parent shall submit to the foster parent a list of immunisations carried out in respect of the child and indicate to the foster parent the list of other immunisations required to be effected in respect of the child in accordance with the Ministry of Health's schedule of immunisations, and the foster parent shall ensure that those immunisations are carried out.

(4) The foster parent and the district probation and social welfare office shall at all times keep a record of the immunisations in respect of the child.

(5) Where the child placed with a foster parent is under five years of age, the child shall be medically examined by a medical personnel referred to in subrule (1) of this rule—

(a) within one month after the date of placement; and

(b) thereafter once every six months,

and the probation and social welfare officer concerned with the placement of the child shall, so far as possible, assist the foster parent in ensuring the carrying out of the requirements of this subrule.

(6) Where the child placed with the foster parent is above the age of five years, the child shall be medically examined by the medical personnel referred to in subrule (1) of this rule once in every year.

(7) The medical personnel who examines a child under subrule (5) or (6) of this rule shall report in writing to the probation and social welfare officer by whom the child was placed, or to the person in charge of the district probation and social welfare officer, on the physical, mental and emotional condition of the child as found by him or her.

11. Supervising officer.

A district probation and social welfare officer shall, subject to these Rules, be responsible for overseeing all aspects of the fostering and for ensuring that the provisions of these Rules are complied with.

12. Visits during placement.

(1) A probation and social welfare officer shall visit the foster family and see the child—

(a) within two weeks after the date of placement of the child with the foster family where the child is under two years of age, and thereafter once every three months;

(b) within one month after the date of placement of the child with the foster family where the child is above two years of age, and thereafter once every three months;

(c) within one month after receiving notification from a foster parent that he or she has changed his or her residence;

(d) immediately and in any case not later than one week after receipt of any information from the child, a foster parent or any other person which indicates the need for him or her to visit the child.

(2) The probation and social welfare officer who carries out a visit under subrule (1) of this rule shall make a written report to be placed in the child's case record stating in detail his or her observations as to the child's welfare, progress and conduct and any changes which have occurred in the circumstances of the foster family.

(3) The report made under subrule (2) shall also include the child's views and feelings concerning placement; and where there are any problems, they shall be discussed and resolved openly within the foster family.

13. Termination of placement.

(1) A child shall not be allowed to remain with a foster parent where it appears that the placement is no longer in the best interests of the child except that—

(a) the foster parent may appeal to the commissioner if the supervising officer seeks to remove a child who has been in the care of the foster parent for more than twelve months; and

(b) the commissioner on any such appeal may prohibit the removal or authorise it subject to such conditions as he or she thinks fit.

(2) A child shall not be required to remain in the care of a foster parent after he or she has attained the age of eighteen years.

14. Illness.

If a foster child is seriously ill, the foster parent shall as soon as possible give notice to the supervising officer, who shall in turn notify the parents or guardians of the illness.

15. Death.

(1) If the foster child dies, the foster parent shall make every effort to obtain a medical certificate of death and a post-mortem report and shall, within forty-eight hours after the death, notify the supervising officer responsible for that child, who shall in turn notify the commissioner of the death.

(2) Where the child's parents or guardians are known, the commissioner shall inform them of the child's death.

(3) If the foster parent dies, in the case where a child is placed with a single foster parent, the child shall be returned to the supervising officer or to the warden of the approved home from which he or she was received.

16. Records.

(1) Every district probation and social welfare office shall maintain a register of foster parents, in which shall be stated in respect of each foster parent, a record set out in Form 3 specified in the Schedule to these Rules.

(2) The register referred to in subrule (1) of this rule shall, in addition, contain—

(a) a statement of the name, sex, age, religion and address of each parent of the foster child, if known; and

(b) the date of placement, the date of termination and the reason for termination.

(3) The district probation and social welfare office shall also, in

respect of each child placed by it in a foster home, maintain a foster child case record in the form set out in Form 4 in the Schedule.

(4) The district probation and social welfare office shall also keep with the foster child case record the following—

(a) a copy of the application form completed by the foster parent and a copy of the undertaking required by rule 9 of these Rules; and

(b) reports made under rule 12 of these Rules.

(5) A register prescribed by subrule (1) of this rule and a foster child case record made under subrule (3) of this rule may be inspected at any reasonable time by the commissioner or by any public officer authorised by him or her.

(6) Every foster child case record made under this rule shall be preserved for at least five years after the child to whom it relates has attained the age of eighteen years or has died, or has returned to the care of his or her parents.

(7) Every district probation and social welfare office shall report to the commissioner within one month after each fostering effected by it, the fact of the fostering and stating the information in Form 3 specified in the Schedule to these Rules.

(8) A district probation and social welfare office shall also notify the commissioner within twenty-one days after its occurrence, of any change in the information referred to in subrule (7) of this rule.

———

Schedule to the Rules.

rule 4.

Forms.

Republic of Uganda

Form 1.
Application to Foster A Child.
Foster Care Placements.
The Children Act.

Name of applicant_____
Married/single _____ Age _____
Address _____
_____ Tel. No. _____
Number of children _____ Age(s) _____
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 _____

_____

rule 9.

Republic of Uganda

Form 2.
Form of Undertaking.
Foster Care Placements.
The Children Act.

I/We (*names of foster parents*) _____
_____
Who received (*name of child*) _____
into my/our home on (*date*) _____
from (*name of district probation and social welfare office*) _____
_____
undertake that—

1. I/We will care for (*name of child*) _____ as though he/she were my/our own child.

2. I/We will bring him/her up in accordance with the _____ _____ religion.

3. I/We will look after his/her health and allow him/her to be medically examined as required by the district probation and social welfare office.

4. I/We will allow an officer of the district probation and social welfare office or representative of the Ministry to visit my/our home and to see the child at any time.

5. I/We will inform the district probation and social welfare office immediately if the child is seriously ill, or is missing, or is involved in an accident, or is in any kind of trouble.

6. I/We will inform the district probation and social welfare office immediately if I/we plan to change residence and address.

7. I/We understand that an officer of the district probation and social welfare office has the right to remove the child from my/our home in certain circumstances.

_____ _____
Signed, foster father Signed, foster mother

_____
Address of foster parent

Certificate.

I, _____, (*title*) certify that I have explained the foregoing undertaking in the _____ language to _____ _____ and _____ foster parent(s).

_____	_____
District Probation and Social Welfare Officer	Witness
_____	_____
Address of District Probation and Social Welfare Office	Address of witness
	_____
	Date

_____

rules 6, 16.

Republic of Uganda

Form 3.
Prospective Foster Parent Record.
Forster Care Placements.
The Children Act.

Name of prospective foster parent(s) _____
_____
Date of birth _____ Age _____
District of origin _____ Religion _____
Occupation _____
Marital status of prospective foster parents(s) _____
Date of marriage _____
Is the relationship monogamous or polygamous? _____

Home address _____
LC1 _____
Village _____
Parish _____
Subcounty _____
County _____

Details of other people living in the home:

Name	Relationship to prospective foster parent	Age	School/class occupation

Is there or has there been any serious illness/infection in the family? (*If any, give details*)

_____

_____

_____

State the income and wealth of the prospective foster parents _____

Give details of businesses and land owned by the family/person _____

_____

Description of the home _____

_____

Number of rooms _____ Type of toilet _____

Type of water supply _____

Will the family/person need material support in order to start fostering? (*If the answer is "yes", state what will be needed.*)_____

_____

_____

Why does this family/person wish to foster children? _____

_____

Do they understand the temporary nature of fostering? _____

Has the person/any member of the family had a serious conviction? (*If yes, give details and dates and state whether in your opinion it is of such seriousness as to prevent the family/person from taking on a foster placement.*)

_____

_____

_____

Assessment of the suitability of that family/person to foster children _____

_____

_____

_____

Recommendation _____

What type of foster child would best benefit from this family/person? *(baby, child, male, female, etc.*)

_____

Details of foster child(ren) already placed with foster parents

Name	Sex	Date of placement	Age at date of placement	Date of termination	Why terminated

Details of parents and siblings of foster children (if known)

Name of foster child	Names of parents	Names of brothers/sisters of foster child	Sex	Age	Religion	Address

Name of supervising officer _____

Signature _____

Address _____

Date _____

_____

rule 16.

Republic of Uganda

Form 4.
Foster Child Case Record.
Foster Care Placements.
The Children Act.

Name of child (*surname first*) _____
Date of birth _____ Age_____
District of origin _____
Sex _____ Religion _____
Names of foster parents _____

	Foster parent's home address	Change of address
LC 1		
Village		
Parish		
Subcounty		
County		

Natural father's name _____ Alive/dead/unknown
Natural mother's name _____ Alive/dead/unknown

	Natural father or guardian's address	Natural mother or guardian's address
LC 1		
Village		
Parish		
Subcounty		
County		

Details of foster child's brothers, sisters and relatives

Names	Addresses	Alive/dead

Where was the child living immediately prior to this foster placement? (*Please give names and addresses of carers or institution*).

_____
_____
_____

Case history of the child and his/her family

_____
_____

_____
_____
_____
_____

State what efforts have been made to trace the parents or relatives and to return the child to his/her family.

_____
_____

Details of medical history, including immunisation

_____
_____

Details of education—
School _____ Class _____

Name of supervising officer_____
Address _____

_____
Supervisor's signature

_____
Date

History: Statute 6/1996; S.I. 51/1997.

Cross References

Approved Schools Act, 1964 Revision, Cap. 110.
Executive Committees (Judicial Powers) Act, Cap. 8.
Judicature Act, Cap. 13.
Organization for African Unity Charter on the Rights and Welfare of the African Child.
Penal Code Act, Cap. 120.
Probation Act, Cap. 122.
Reformatory Schools Act, 1964 Revision, Cap. 111.
United Nations Conventions on the Rights of the Child.