

CHILDREN'S ACT, 1998 (ACT 560)

AN ACT to reform and consolidate the law relating to children, to provide for the rights of the child, maintenance, and adoption, to regulate child labour and apprenticeship, for ancillary matters concerning children generally and to provide for related matters.

Part 1- Rights of the Child

Part 2- Quasi-judicial and judicial child adjudication

Part 3- Parentage, custody, access and Maintenance

Part 4- Fosterage and Adoption

Part 5- Employment of Children

Part 6- Institutionalized Care and Miscellaneous Matters

Part One: Rights of the Child

1) *Rights of a Child and Parental Duty*

- A child is a person below the age of 18years.
- All matters concerning a child and any court, institution or body dealing with a matter concerning a child must be guided by the best interest of the child.
- Subject to the law on adoption, a child has a right to a name and nationality and a right to know its natural parents and extended family.
- A child should not be denied the right to live and grow with its parents unless in the best interest of the child, a court so orders.
- Parents (mother and father) are responsible for the welfare of the child whether or not they are married or live together. The responsibilities of the parents include providing education, health, leisure, good guidance, and protection from violence, hazards and discrimination.
- A parent cannot leave a child below 18months in the care of another child who is below 15years.
- A parent is responsible for the registration of the birth of a child.
- A child should not be deprived of a reasonable provision of its parent's estate.
- A child has a right to and must not be denied any of the following for any reason;
 - ✓ Education
 - ✓ Adequate diet
 - ✓ Clothing
 - ✓ Shelter
 - ✓ medical attention
 - ✓ sporting activities
 - ✓ expression of an opinion
- A child must be protected from exploitative labour, torture, degrading treatment or cruelty.

- A child cannot be forced into a marriage of any sort and cannot be betrothed or be a subject of a dowry.
- All the prohibitions stated in the Children's Act, if contravened are considered as offences punishable by up to GHS3, 000 or not more than 12 months or both.

2) *Care and Protection*

- It is the responsibility of every district assembly to promote the rights of children within its district and ensure that all state agencies within the district work together to achieve this.
- The department of social welfare within the district assembly is responsible for investigating cases involving the abuse of children's rights. Any information on child abuse or relating to a child in need of care and protection¹ should be reported to the department.
- A child may be removed from its current situation if determined not to be in its best interest under a care order by a court and placed in an approved residential home, with an approved fit person, or at the home of a parent, guardian or relative. The maximum duration of a care order is 3years or until the child reaches adult age.
- Care for a child may also be secured by a supervision order of the court which is aimed at preventing harm being done to the child while it remains in the custody of a parent, guardian or relative.

Part 2: Quasi-judicial and judicial child adjudication

- If a District assembly finds it necessary, it may establish 'child panels' which will have non-judicial responsibilities of mediate criminal² and civil³ matters concerning a child. The members of child panels are appointed by the Minister.
- Family tribunals (District Courts constituted and sitting as such under the chairmanship of the district court judge) are established in each district to determine matters concerning parentage, custody, access and maintenance of children and any other powers as are conferred on it by law.
- At a family tribunal a child has a right to legal representation; a right to give an account and express an opinion; a right to privacy throughout the proceedings; a right to an appeal explained to the child, guardian and parents.

Part 3: Parentage, Custody, Access and Maintenance

- An application may be brought to the family tribunal for an order to confirm parentage, for custody, for periodic access or for maintenance.

¹ a child is in need of care and protection if the child, (a) is an orphan or is deserted by the relatives, (b) has been neglected or ill-treated by the person who has the care and custody of the child, (c) has a parent or guardian who does not exercise proper guardianship, (d) is destitute, (e) is wandering, (f) is begging or receiving alms or accompanying a person who is so doing, (g) is exposed to moral or physical danger, among others

² (relating to minor offences where the circumstances are not aggravated)

³ (relating to the rights of a child and parental duties)

- A maintenance order expires when a child attains 18 years, but the court can extend it under some circumstances. The order can also be varied on application to the court
- A child is not to be unlawfully removed from another person who has lawful custody of the child.

Part 4: Fosterage and Adoption

- A person above the age of twenty-one years of high moral character and proven integrity may be a foster-parent to a child. A foster-parent is a person who is not the parent of a child but is willing to undertake the care and maintenance of the child.
- An application for an adoption order may be made to the High Court, the Circuit Court or to a family tribunal within the jurisdiction where the applicant or the child resides at the date of the application by a person including a parent of a child, either individually or with a spouse.
- An applicant for an adoption order must be at least 25 years old and 21 years older than the child to be adopted. In the case of a child who is a relative of the applicant, the applicant must be at least 21 years old.
- A sole male applicant for an adoption order will be denied unless the application is in respect of the applicant's son or the court decides that special circumstances exist.
- An applicant who is a citizen residing abroad must show that the child has been in his/her care for at least 3 months preceding the application and the department of social welfare has been notified of the intended adoption in the same period of time.
- Adoption orders ordinarily must be supported by the consent of the child's parents or guardians.

Part 5: Employment of Children

- Provisions relating to employment of children apply to both the formal and informal sectors.
- A child is not to be engaged in work that deprives it of its health, education or development.
- No child is to be engaged in work between 8pm and 6am.
- A child under 15 years is not to be engaged in any employment.
- The district labour officer is responsible for ensuring adherence to laws against child labour in the formal sector, while the social services committee of the district assembly ensures compliance in the informal sector.
- The minimum age at which a child may commence an apprenticeship with a craftsman is fifteen years or after completion of basic education. Apprenticeships must be covered with an agreement.

Part 6: Institutionalized Care and Miscellaneous Matters

- Homes for the care of children may be established by the government or by non-government organizations with the approval and under the license of the Minister responsible.
- A child may be admitted to a home
 - (a) pending the determination by a family tribunal or

(b) on the recommendation of a probation officer or social welfare officer who has determined that the approved home is the most suitable place for the child, or
(c) if the child is an orphan and family care and fosterage are not available

- A permit to operate a day-care centre may be submitted to and granted by the department at a district assembly. "day-care centre" means an early childhood development establishment where children below compulsory school going age are received and looked after for the day or a substantial part of the day with or without a fee;
- The Social Welfare and Community Development Department of a district assembly shall inspect the premises, books, accounts and any other records of a day-care centre at least once in every six months and shall submit a report of the inspection to the Social Services Sub-committee of a District Assembly.

Miscellaneous Provisions

(1) The District Health Department of a District Assembly is responsible, in consultation with the Department of the District Assembly, for the registration of births in the district.

(1) In the absence of a birth certificate or a baptismal certificate, a certificate signed by a medical officer as to the age of a child below eighteen years of age shall be evidence of that age before a family tribunal without proof of signature unless the Court directs otherwise.