

ACTS SUPPLEMENT

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Act 9

Children (Amendment) Act

2016

THE CHILDREN (AMENDMENT) ACT, 2016

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THE CHILDREN (AMENDMENT) ACT, 2016

An Act to amend the Children Act Cap. 59 to enhance the protection of children; to strengthen the provision for guardianship of children; to strengthen the conditions for inter-country adoption; to prohibit corporal punishment; to provide for the National Children Authority, repeal the National Council for Children Act, Cap. 60 and to provide for other related matters.

DATE OF ASSENT: 20th May, 2016.

Date of Commencement: See section 1.

BE IT ENACTED by Parliament as follows:

1. Commencement.

This Act shall come into force on a date appointed by the Minister by Statutory Instrument.

2. Amendment of section 1 of the principal Act.

The Children Act, in this Act referred to as the principal Act, is amended in section 1 by inserting in the appropriate alphabetical order the following definitions—

“alternative care” means formal care options availed to a child without parental care;

“authority” means the National Children Authority established under section 9A;

“board” means the board of directors established under section 9C;

“chairperson” means a chairperson of the board of directors;

“child labour” means work that is mentally, physically, socially or morally dangerous and harmful to a child, and the circumstances under which it is performed jeopardizes the health, safety, morals and education of a child;

“child marriage” means any union whether formal or informal involving any person below the age of 18 years for the purpose of living as husband and wife;

“children with special needs” means children who have long-term physical, mental, intellectual or sensory impairments which may hinder their full and effective participation in society on an equal basis with others;

“child pornography” means any representation through publication exhibition, cinematography, indecent show, through information technology or by whatever means, of a child engaged in real or simulated explicit sexual activity, or any representation of sexual parts of a child for primarily sexual purposes;

“child trafficking” means recruitment, transportation, transfer, harbouring or receipt of a child by means of threat or use of force or other forms of coercion, abduction or fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation;

“member” means a member of the board of directors;

“child exploitation” means the employment of a child in activities from which other people derive a benefit, whether financial, sexual or political and includes activities such as child trafficking, child prostitution, child pornography and involvement of children in armed conflict;

“child neglect” means the failure to provide for the basic physical, emotional and developmental needs of a child, in areas such as health, education, emotional development, nutrition, shelter and safe living conditions, which cause or have a high probability of causing impairment to a child’s health or physical, mental, spiritual, moral or social development;

“corporal punishment” means any punishment in which physical force is intentionally used to cause pain or injury to a child, and includes punishment which is intended to belittle, humiliate or ridicule a child;

“joint custody” means an order granting custody of a child to two or more persons;

“joint guardianship” means two or more persons having parental responsibility of a child;

“relative” means a person connected with another or others by blood or marriage;

“violence” means any form of physical, emotional or mental injury or abuse, neglect, maltreatment and exploitation, including sexual abuse, intentional use of physical force or power, threatened or actual, against an individual which may result in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation;

3. Replacement of section 3 of the principal Act.

For section 3 of the principal Act, there is substituted the following—

“3. Welfare and guiding principles.

(1) The welfare of the child shall be of paramount consideration whenever the state, a court, a tribunal, a local authority or any person determines any question in respect to the upbringing of a child, the administration of a child’s property, or the application of any income arising from that administration.

(2) 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 matter is likely to be prejudicial to the welfare of the child.

(3) In determining any question under subsection (1), court or any other person shall have regard to—

- (a) the ascertainable wishes and feelings of the child concerned, with due regard to his or her age and understanding;
- (b) the child’s physical, emotional and educational needs;
- (c) the likely effects of any change in the child’s circumstances;
- (d) the child’s sex, age, background and any other circumstances relevant in the matter;
- (e) any harm that the child has suffered or is at the risk of suffering; and
- (f) where relevant, the capacity of the child’s parents, guardian or any other person involved in the care of the child, and in meeting the needs of the child.”

4. Replacement of section 4 of the principal Act.

For section 4 of the principal Act, there is substituted the following—

“4. Rights of the child.

(1) Every child shall have the right to—

- (a) live with his or her parent or guardian;
- (b) where capable, express his or her view, belief or opinion on any matter that affects his or her wellbeing;
- (c) access any information to which a parent, guardian or other person in authority deems critical to the child’s well-being;
- (d) be registered after birth;
- (e) a name and nationality;
- (f) inherit property where applicable;
- (g) safety, privacy, information and access to basic social services;
- (h) leisure which is not morally harmful and the right to participate in sports and positive cultural and artistic activities;
- (i) to use any social amenities or other resources available in any situation of armed conflict or natural or man-made disasters;
- (j) be treated without discrimination of any kind, irrespective of his or her race, colour, religion, belief, age, family status, culture, language, ethnicity, nationality, or social origin, citizenship, gender, disability if any, political or social opinion, property or any other condition;

- (k) effective legal aid including representation in all civil, criminal and administrative proceedings;
- (l) exercise, in addition to all the rights stated in this Act, the rights set out in the United Nations Convention on the Rights of the Child and the Organization of African Charter on the Rights and Welfare of the child with appropriate modifications to suit circumstances in Uganda that are not specifically mentioned in this Act.

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

(3) A person who contravenes the provision of subsection (1) commits an offence and is liable on conviction, to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

(4) Subject to subsection (1) (e), where a child is deprived of his or her identity, the Government shall provide appropriate assistance and protection, with a view to establishing his or her identity.

(5) A person who witnesses an abuse against the rights of a child shall, as soon as possible, report the matter to the police or any authority responsible for child welfare.

(6) A person who fails to comply with subsection (4) commits an offence and is liable on conviction to a fine not exceeding twenty currency points or imprisonment not exceeding one year or both.”

5. Amendment of section 6 of the principal Act.

Section 6 of the principal Act is amended in subsection (1) by inserting the words “or guardian” between the words “parent” and “shall”.

6. Amendment of section 7 of the principal Act.

For section 7 of the principal Act there is substituted the following—

“7. Harmful customary or cultural practices.

(1) A person shall not expose a child to any customary or cultural practice that is harmful to his or her health, well being, education or social-economic development.

(2) For purposes of this section, “harmful customary or cultural practice” means any activity that is mentally, physically, socially or morally harmful to a child and includes an activity that interferes with a child’s education and social development.

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a term of imprisonment not exceeding seven years or to a fine not exceeding one hundred and sixty eight currency points, or both.”

7. Replacement of section 8 of the principal Act.

For section 8 of the principal Act there is substituted the following—

“8. Harmful Employment.

(1) A person shall not employ or engage a child in any activity that may be harmful or hazardous to his or her health, or his or her physical, mental, spiritual, moral or social development.

(2) Subject to subsection (1), the minimum age of employment of a child shall be 16 years.

(3) For the purpose of this section, “harmful or hazardous employment” includes work which exposes a child to physical or psychological torture, sexual abuse, work underground, work at dangerous heights or in confined spaces, work with dangerous machinery, equipment and tools, or manual handling or transportation of heavy loads, work with chemicals and dangerous substances, work under extreme temperatures, high levels of noise, or working for longer hours; or any other form of child labour which includes slavery, trafficking in persons, debt bondage and other forms of forced labour, forced recruitment for use in armed conflict, prostitution, pornography and illicit activities.”

8. Insertion of section 8A in the Principal Act.

The Principal Act is amended by inserting a new section 8A immediately after section 8 to read as follows—

“8A. Prohibition of sexual exploitation.

(1) A person shall not engage a child in any work or trade that exposes the child to activities of sexual nature whether paid for or not

(2) For avoidance of doubt, it shall be unlawful for any person to use—

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

A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to a term of imprisonment not exceeding five years.

9. Insertion of a new Part IIA in the principal Act.

The Principal Act is amended by inserting a new Part IIA immediately after Part II to read as follows—

“PART IIA—THE NATIONAL CHILDREN AUTHORITY.

9A. Establishment of the Authority

(1) There is established an Authority called the National Children Authority.

(2) The Authority shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its own name.

(3) The Authority may, for and in connection with its functions under this Act, purchase, hold, manage and dispose of any property, whether movable or immovable, and enter into any contract and other transactions as may be expedient and may do and suffer any other act or thing as in law may be done or suffered by a body corporate.

9B. Functions of the National Children Authority

(1) The functions of the Authority are to—

- (a) advise the Government on the formulation of a national child protection policy and child rights programmes;
- (b) create awareness, on the right of a child to be protected from abuse and develop methods of preventing child abuse;
- (c) consult the relevant ministries, local authorities, districts and divisional, public and private sector organizations and recommend all such measures as are necessary, for the purpose of preventing child abuse and for protecting and safeguarding the interests of the victims of such abuse;

- (d) recommend legal, administrative or other reforms required for the effective implementation of the national policy for the prevention of child abuse;
- (e) monitor the implementation of laws relating to all forms of child abuse;
- (f) monitor the progress of all investigations and criminal proceedings relating to child abuse;
- (g) recommend measures to address the humanitarian concerns relating to children affected by armed conflict and the protection of such children, including measures for their mental and physical well-being and their re-integration into society;
- (h) take appropriate steps where necessary for securing the safety and protection of children involved in criminal investigations and criminal proceedings;
- (i) receive complaints from the public relating to child abuse and where necessary, to refer such complaints to the appropriate authorities;
- (j) advise, co-ordinate and assist the government and local authorities, and nongovernmental organizations in campaigns against child abuse;
- (k) prepare and maintain a national data base on children;
- (l) in consultation with the relevant ministries and other authorities, supervise and monitor all religious and charitable institutions which provide child care services to children;

- (m) conduct, promote and co-ordinate, research in relation to child abuse and child protection;
- (n) provide information and education to the public regarding the safety of children and the protection of the interests of the child;
- (o) engage in dialogue with all sections connected with tourism with a view to minimizing the opportunities for child abuse;
- (p) organize and facilitate workshops, seminars and discussions, relating to child abuse;
- (q) liaise and exchange information with foreign Governments and international organizations, with respect to detection and prevention of all forms of child abuse.

9C. Board of directors and its functions

(1) There is established a board of directors as the governing body of the Authority, which shall consist of the following—

- (a) a chairperson, who shall be appointed by the Minister;
- (b) one representative of the Ministry responsible for Social Development;
- (c) one representative of the Ministry responsible for Education;
- (d) one representative of the Ministry responsible for Internal Affairs;
- (e) the Executive Director of the Authority who shall be secretary of the board and shall be an ex-officio member of the board;

(2) The Minister may appoint two other persons who are not public officers as additional members of the board on the basis of their special knowledge and experience in children affairs, provided that the persons being appointed have no part-time or full-time activity or interest which conflicts with, or impairs fulfilment of their duties as board members.

(3) The board shall be responsible for monitoring and protection of the best interests of the child and shall determine policies relating to staffing and procurement of the authority.

(4) The Minister may give directions to the board regarding the performance of its functions, and the board shall comply with such directions.

9D. Qualifications for appointment

The members of the board, other than the ex officio members, shall be appointed from among persons who qualify for appointment by virtue of their professional knowledge and experience in children affairs or in such other matters of children as the Minister may determine.

9E. Tenure of office

A member of the board other than an ex officio member shall hold office—

- (a) on such terms and conditions as are specified in the instrument of appointment;
- (b) in the first instance, for a period not exceeding three years; and
- (c) shall be eligible for re appointment only for a subsequent period not exceeding three years.

9F. Minister's power to suspend or terminate appointment

The Minister may terminate or suspend the appointment of a member—

- (1) for the member's inability to perform the functions of his or her office;
- (2) for misbehaviour;
- (3) if the member is declared or becomes bankrupt or insolvent;
- (4) if the member is convicted of a criminal offence in respect of which a penalty not exceeding six months imprisonment may be imposed;
- (5) if the member without prior permission of the chairman or without reasonable cause to the satisfaction of the Minister, is absent from six meetings of the board in any financial year; or
- (6) for any other sufficient cause.

9G. Resignation of members

(1) A member of the board may resign his or her office by letter addressed to the Minister and such resignation shall be effective from the date on which it is received by the Minister.

(2) Where a member of the board dies, resigns or is removed from office, the Minister shall, appoint another member in his place.

9H. Meetings and common seal of the board

(1) The common seal of the board shall be in such form as the board may determine.

(2) The application of the common seal on any document shall be authenticated by the signature of the chairperson and one other member of the board; and in the absence of the chairperson, any two members of the board authorized by the board shall authenticate the application of the seal on his or her behalf.

(3) The signature of the chairperson and the other members of the board shall be independent of the signing by any other person who may sign any such document as a witness.

(4) A document purporting to be an instrument issued by the board and to be sealed by the common seal of the board authenticated in the manner prescribed by subsection (2) shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

(5) The provisions of the Fourth Schedule to this Act shall apply to the meetings of the board and other matters provided for in that schedule and the Minister may by statutory instrument amend the schedule.

9I. Remuneration or allowance of members

The members of the board shall be paid such remuneration or allowances out of the funds of the Authority at such rates as may be determined by the Minister.

9J. Specialized committees

(1) The board shall establish the following specialized committees for the efficient performance of its functions under this Act—

- (a) a specialized committee on capacity building;
- (b) a specialized committee on policy, research, planning and data management;

- (c) a specialized committee on child development and participation; and
- (d) a specialized committee on child survival

(2) The board may also set up such other specialized committees as it may consider necessary for the efficient performance of its functions under this Act.

(3) Every specialized committee set up under this section shall consist of three members of the board including a chairperson.

(4) The board may prescribe the procedure of a specialized committee.

9K. Functions of the specialized committees

(1) The functions of each specialized committee are to recommend and report to and advise the board on all policy matters relating to the committee’s specific sector of child survival, development and protection.

(2) The board may also delegate any of its functions to a specialised committee, subject to any limitations imposed by the Authority.

Management and staff of the authority

9L. Secretariat

The Authority shall have a secretariat to assist it in carrying out its functions under this Act.

9M. Functions of the secretariat

(1) The functions of the secretariat shall be—

- (a) to review and advise on policies and strategies regarding children;
- (b) to establish and advise on development priorities and targets and the selection of projects in the social service sector and other areas concerning children;
- (c) to review and prepare annual plans of action and budgets for the implementation of the programme of action and other child-based programmes;
- (d) to undertake analytical social and economic studies relating to the needs and problems of children;
- (e) to liaise with Ministries, institutions, non-governmental organisations and donor agencies concerned with children with a view to coordinating their activities and providing them with technical guidance and direction;
- (f) to carry out such other functions within the objects and functions of the Authority as may be necessary or expedient for the proper implementation of the provisions of this Act as the Authority may direct.

(2) The carrying out of the functions of the secretariat shall be subject to the directions of the board on matters of policy and shall be deemed to be done on behalf of the Authority.

9N. Executive Director

(1) The Authority shall have an officer to be designated the Executive Director.

(2) The Executive Director shall be appointed by the Minister in consultation with the board and shall hold office upon such terms and conditions as may be specified in the instrument of appointment.

(3) The Executive Director shall be a person who has substantial experience in, and knowledge of children affairs.

(4) The Minister, in consultation with the board, may remove the Executive Director from office for—

- (a) inability to perform the functions of his or her office by reason of infirmity of body or mind;
- (b) misbehaviour; or
- (c) any other sufficient cause.

(5) Where the Executive Director is temporarily incapacitated by illness or other cause from the performance of his or her functions or where the office of the Executive Director is vacant; the deputy Executive Director shall act as Executive Director for the duration of the incapacity or until the vacancy is filled;

(6) Where it is not possible for the Deputy Executive Director to act as Executive Director, the Minister may, on the recommendation of the board, appoint an officer of the Authority qualified in terms of subsection (3) to perform the functions of the Executive Director for the duration of the Executive Director's incapacity or until the vacancy in the office of the Executive Director is filled.

90. Functions of the Executive Director

(1) The Executive Director shall be the Head of the Authority and head of the secretariat.

(2) The Executive Director shall act as the secretary of the board.

(3) The Executive Director shall, subject to the control of the board, be responsible for—

- (a) the day-to-day administration of the affairs of the Authority, and of the secretariat;
- (b) the funds and properties of the Authority;
- (c) the organization, discipline and control of the employees of the Authority and of persons engaged by the Authority.

(4) The Executive Director shall, unless the board in any particular case otherwise directs on grounds stated by it in writing, be entitled to attend all meetings of the board but shall not have the right to vote on any matter to be decided by the board at any meetings.

9P. Deputy Executive Director

(1) The Authority shall also have an officer to be designated the Deputy Executive Director.

(2) The Deputy Executive Director shall be appointed by the Minister in consultation with the board and shall hold office upon such terms and conditions as may be specified in the instrument of appointment.

(3) The Deputy Executive Director shall be a person who has substantial experience in and knowledge of matters relating to children.

(4) The Minister, in consultation with the Authority, may remove the Deputy Executive Director from office for—

- (a) inability to perform the functions of his or her office by reason of infirmity of body or mind or for any other sufficient cause; or

(b) misbehaviour.

(5) The Deputy Executive Director shall assist the Executive Director in carrying out his or her functions under this Act and shall carry out such specific functions as the Executive Director or the board may direct.

9Q. Other employees of the authority

(1) The board may on the advice of the executive director appoint such other employees as may be necessary for the proper and efficient discharge of its functions under this Act.

(2) The employees of the Authority appointed under this section shall hold office upon such terms and conditions as the board may determine.

(3) Without prejudice to the general effect of subsection (2), the board may, provide for the payment to its employees of salaries, allowances, pension or other terminal benefits and may require them to make contribution to any pension, provident fund or superannuation scheme.

(4) The board may, subject to conditions and restrictions imposed by it, delegate to the chairperson or the Executive Director any of its powers to appoint or remove any employee under this section.

(5) Public officers may be seconded to the service of the Authority on such terms and conditions as may be agreed between the Authority and the employers of those public officers.

9R. Experts and consultants

(1) The board may, acting on the advice of the Executive Director, engage the services of experts and consultants in respect of any of the functions of the Authority.

(2) Experts and consultants engaged under this section may be paid such fees and allowances and may be afforded such facilities as the Authority may determine.

*Finance***9S. Funds of the authority**

(1) The funds of the Authority shall consist of—

- (a) monies appropriated by Parliament;
- (b) grants from the Government;
- (c) loans from the Government or from any person or organisation within or outside Uganda;
- (d) grants, gifts and donations that may be received by the Authority from any source within or outside Uganda; and
- (e) any sums that may become payable to the Authority in the discharge of its functions under this Act.

(2) All income and monies of the Authority shall be deposited to the credit of the Authority in a bank approved by the Accountant General and shall not be withdrawn except with the approval of, and in the manner determined by, the board.

9T. Borrowing powers

(1) The Authority may, with the prior approval of the Accountant General, obtain loans and other credit facilities required for meeting its obligations and for carrying out its functions under this Act.

(2) The Authority may, with the prior approval of the Minister, borrow by way of overdraft or otherwise, such sums as may be required for meeting the current obligations of the Authority, or for the discharge of its functions.

(3) A loan or credit facility obtained by the Authority under this section shall be approved by Parliament, and when so approved, the principal sum and interest of that loan shall be a charge on the Consolidated Fund.

9U. Estimates of income and expenditure of authority

(1) The Executive Director shall, not later than three months before the end of each financial year, cause to be prepared and submitted to the board for his or her approval, estimates of the income and expenditure of the authority for the next following financial year.

(2) No expenditure shall be made out of the funds of the Authority unless the expenditure is part of the approved budget by the board under the estimates for the financial year in which the expenditure is to be incurred.

9V. Financial year of the authority

The financial year of the Authority shall be, in respect of any accounting period, the period of twelve months ending on the 30th June.

9W. Accounts

(1) The Authority shall keep proper books of account of all its income and expenditure and proper records in relation to them.

(2) Subject to any directions given by the Minister, the Authority shall cause to be prepared in respect of each financial year, and not later than three months after the close of the financial year, a statement which shall include a report on the performance of the Authority during that financial year, and the statement shall comprise:-

- (a) a balance sheet and a statement of income and expenditure of the Authority in respect of that financial year; and
- (b) any other information in respect of the financial affairs of the Authority as the Minister may, in writing, require.

9X. Audit

(1) The accounts of the Authority shall, in respect of each financial year, be audited by the Auditor General or by an auditor appointed by the Auditor General.

(2) The Authority shall ensure that within four months after the close of each financial year the statement of account described in section 9W is submitted for auditing.

(3) The Auditor General or any auditor appointed by him or her shall have access to all books of account, vouchers and other financial records of the Authority and be entitled to have any information and explanation required by him or her in relation to them as he or she may deem fit.

(4) The auditor shall, within two months after receipt of the statement of account under subsection (2), audit the accounts and deliver to the Authority a copy of the audited accounts together with his or her report on them stating any matter which in his or her opinion should be brought to the attention of the Minister.

(5) The auditor shall deliver to the Minister a copy of the audited accounts together with his or her report on them.

9Y. Investment of surplus funds of the Authority.

Any funds of the Authority not immediately required for any purpose under this Act shall be invested in such manner as the board may, with the approval of the Accountant General, determine.

10. Amendment of section 9 of the principal Act.

Section 9 of the principal Act is amended by—

- (a) adding the word “and children with special needs” immediately after the word disabilities wherever it appears;
- (b) by inserting the following new subsections—
 - (1) A parent or guardian shall in liaison with a qualified medical practitioner be responsible for the identification of a child with disabilities or a child with special needs;
 - (2) In the event that a child is identified with any disability or special needs, such a child shall be afforded such facilities as are necessary to address their needs by Government;
 - (3) A child with disabilities or a child with special needs shall have access to such education suitable to address their disabilities or special needs;

- (4) A child shall not be discriminated against on account of their disability or special needs;
- (5) A person who contravenes this section commits an offence and is liable, on conviction, to a term of imprisonment of five years, or to a fine not exceeding one hundred and fifty currency points or both.
- (6) The board shall give first priority in funding and implementation of programmes for children with special needs and shall not divert funds for such programmes.

11. Insertion of new sections 42A, 42B and 42C under PART V of the principal Act.

The Principal Act is amended by inserting immediately after section 42 the following new sections—

“42A. Protection of children from all forms of violence.

(1) Every child has a right to be protected against all forms of violence including sexual abuse and exploitation, child sacrifice, child labour, child marriage, child trafficking, institutional abuse, female genital mutilation, and any other form of physical or emotional abuse.

(2) A person who on reasonable grounds believes that a child has been abused or is in imminent danger which may result in physical injury, sexual abuse, deliberate neglect, or is in need of care and protection may report to a designated child protection organization or authority.

(3) Notwithstanding subsection (2), it shall be mandatory for the following persons to report on any matter which affects the well being of a child under their charge—

- (a) a medical practitioner;
- (b) a social worker;
- (c) a teacher; or
- (d) Local Councillor at LC I level.

(4) The designated child protection organization, probation and social welfare officer, or police officer or any other responsible person to whom a report has been made must—

- (a) ensure the safety and wellbeing of the child concerned, if the child's safety or wellbeing is at risk;
- (b) make an initial assessment of the report;
- (c) unless the report is frivolous or obviously unfounded, investigate the truthfulness of the report or cause it to be investigated; and
- (d) if the report is substantiated by such investigation, initiate proceedings in terms under this Act for the protection of the child.

(5) A designated child protection organization to which a report has been made must report the matter to the probation and social welfare officer.

(6) Notwithstanding subsection (4), the probation and social welfare officer shall monitor the progress of all matters reported.

(7) The designated child protection organization, probation and social welfare officer or a police officer who has conducted an investigation may—

- (a) take measures to assist the child, or refer the child to protective services including counseling, mediation, prevention and early intervention services, family reconstruction and rehabilitation, behavior modification, and problem solving; or
- (b) initiate action for the long term protection of the child if it is assessed that the current environment in which the child lives poses significant threat or risk to the child.

(8) The designated child protection organization or probation and social welfare officer who has conducted an investigation must report the findings to the Police.

(9) For the purpose of this section, the designated child protection organization includes Local Council, medical practitioner, probation and social worker.

42B. Prevention and intervention programmes.

(1) The Minister must, after consultation with relevant persons, develop a comprehensive national strategy aimed at securing the provision of prevention and early intervention programmes to families, parents, caregivers and children across the country.

(2) Prevention and early intervention programmes must focus on—

- (a) preserving a child's family structure;
- (b) developing appropriate parenting skills and the capacity of parents and caregivers to safeguard the wellbeing and best interest of the child, including the promotion of positive, nonviolent forms of discipline;

- (c) developing appropriate parenting skills and the capacity of parents and caregivers to safeguard the wellbeing and best interest of children with disabilities and chronic diseases;
- (d) promoting appropriate interpersonal relationships within the family;
- (e) providing psycho-social, rehabilitation and therapeutic programmes for children;
- (f) preventing the neglect, exploitation, abuse or inadequate supervision of children and preventing other failures in the family environment to meet children's needs;
- (g) preventing recurrence of problems in the family environment that may harm children or adversely affect their development;
- (h) avoiding the removal of a child from the family environment;
- (i) promoting the participation of families, parents, caregivers and children in identifying and seeking solutions to their problems.

42C. Rights to protective services.

(1) Every child shall be entitled to access protective services.

(2) The Ministry responsible for children affairs shall in consultation with relevant government institutions ensure that designated child protection services are available and accessible to children.

- (3) Designated child protection services include—
- (a) services aimed at supporting—
 - (i) the proceedings of children court; and
 - (ii) the implementation of court orders;
 - (b) services related to—
 - (i) prevention and early intervention child care services;
 - (ii) the reunification of children in alternative care with their parents;
 - (iii) the integration of children into alternative care arrangements;
 - (iv) the placement of children in alternative care; and
 - (v) the adoption of children, including inter-country adoption;
 - (vi) the carrying out of investigations and the making of assessments, in case of suspected abuse, neglect or abandonment of children;
 - (vii) intervention and removal of children in appropriate cases;
 - (viii) the drawing up of individual development plans or plans for children removed, or at risk of being removed, from their families;

- (ix) establishing a national child help line facility;
 - (x) any other social work services as may be prescribed by the Minister by statutory instrument; and
 - (xi) protection of children at all stages of the justice process, including before, during and after trial and holding proceedings in camera during trial for child offenders and child victims and witnesses.
- (c) Notwithstanding subsection(3)(b)(ix), all firms institutions of child care, organisations and members of the public who interface with children must report to the relevant authority any abuse of a child within their community;
- (d) for the purpose of this section, relevant authority means a local council.”

12. Insertion of a new Part VIA in the principal Act.

The principal Act is amended by inserting immediately after Part VI the following new part—

“PART VIA—GUARDIANSHIP.

43A. Legal guardianship.

(1) This Part applies to the guardianship of children in Uganda by citizens of Uganda.

(2) A person who is not a citizen of Uganda shall not be eligible to apply for legal guardianship.

43B. Application for legal guardianship.

Application for legal guardianship of a child—

- (a) may be made by any person above the age of eighteen years;

- (b) shall be made to the High Court;
- (c) shall be by petition in Form 1 set out in the Third Schedule; and
- (d) shall be accompanied by a report of the probation and social welfare officer.

43C. Customary guardianship.

(1) Family members may appoint a guardian of a child in accordance with their customs, culture or tradition—

- (a) both parents of the child are deceased or cannot be found;
- (b) the surviving parent is incapacitated; or
- (c) the child has no guardian or any other person having parental responsibility for him or her.

(2) A guardian appointed under subsection (1) shall act as trustee in respect of the property of that child.

(3) A person who misappropriates the property of a child commits an offence and is liable, on conviction, to a term of imprisonment not exceeding five years or to a fine not exceeding one hundred and fifty currency points or both.

(4) For purposes of this section, “customary guardianship” means parental responsibility of a Ugandan child by a Ugandan citizen resident in Uganda in accordance with the customs, culture or tradition of the respective people.

43D. Appointment of a guardian by agreement.

(1) The parent of a child may, by agreement or deed, appoint any person to be a guardian.

(2) The appointment made under subsection (1) shall not have effect unless the agreement or deed is dated and signed by the parent in the presence of two witnesses, one of whom must be a probation and social welfare officer, and the other must be a local councillor at LC I level.

43E. Dispute between joint guardians.

(1) The court may appoint two or more persons to act as joint guardians of a child.

(2) Where two or more persons appointed to act as joint guardians in respect of a child are unable to agree on any matter affecting the welfare of a child, any of them may apply to the court for its direction.

43F. Conditions for guardianship.

(1) The court shall before making a guardianship order satisfy itself that—

- (a) there is no known relative or next of kin of the child;
- (b) the relative or next of kin are unwilling or unable to take parental responsibility of the child;
- (c) all alternative care options available to the child have been exhausted;
- (d) the child is suffering or likely to suffer significant harm under present custody;
- (e) consideration has been given to the wishes of the child, having regard to the age and understanding of the child, where in the view of the court, the child is able to understand the guardianship proceedings; and
- (f) where the child is twelve years of age or above, his or her consent to the guardianship has been obtained, unless it is impossible for the child to express his or her consent.

(2) The court shall before making a guardianship order satisfy itself that the applicant—

- (a) has continuously lived in Uganda for at least three months;
- (b) does not have a criminal record; and
- (c) has a recommendation concerning his or her ability as a guardian from a probation and social welfare office or other competent authority in Uganda or in applicant's country of residence.

(3) The court shall not make an order for guardianship, unless it is satisfied that the applicant has not made, given or agreed to make any payment or other reward in consideration of the guardianship.

(4) The court may dispense with any consent required under this section if satisfied that the person whose consent is to be dispensed with has abandoned, or deserted the child, cannot be found or is incapable of giving consent or being a person responsible for the support of the child, has persistently neglected or refused to contribute to the support of the child.

(5) The court may, in addition to the report of the probation and social welfare officer require a local authority, the probation and social welfare officer in the relevant District in Uganda or any other person to make a report in respect of the guardianship application.

43G. Guardianship order.

(1) The Court may, if satisfied that the applicant has fulfilled the conditions for guardianship under this Part, make an order for the guardianship of the child.

(2) Except where the application is made jointly by spouses, a guardianship order shall not be made to authorize more than one person as guardian of a child.

43H. Effect and duration of a guardianship order.

(1) A guardianship order shall vest parental responsibility of the child in the guardian.

(2) A guardianship order shall remain in force until the child in relation to whom it is issued attains the age of eighteen years.

(3) The guardianship order shall cease to apply where the guardian dies or is suffering from infirmity of body or mind.

43I. Registration of guardianship order.

(1) Every person to whom a guardianship order is granted shall within fourteen days after the grant of the order, register the order with the Uganda Registration Services Bureau and the Ministry responsible for children affairs and submit a copy of the order to the National Children Authority.

(2) The registration of a guardianship order shall be in Form 2 set out in the Third Schedule.

43J. Child placement organization.

(1) Every child placement organization outside Uganda shall—

- (a) submit an annual progressive report to the probation and social welfare officer and to the Ugandan Diplomatic Mission in the Country of residence detailing the welfare of the child, the adoption of the child to his or her new environment and any changes in the guardian's status of living;

- (b) submit any change of address of the child placement organization mentioned in subsection (1)(a), where the guardian changes his or her physical address.

(2) The probation and social welfare officer shall within one month of receiving the reports mentioned in subsection (1) (a) transmit them to the court that made the guardianship order and to the Minister responsible for children affairs in Uganda.

43K. Revocation of guardianship order.

(1) A probation and social welfare officer or a relative of a child under guardianship may apply to court to revoke a guardianship order.

(2) The court may revoke a guardianship order where—

- (a) it is satisfied that the guardianship order was obtained by fraud or misrepresentation;
- (b) the guardian has not complied with the conditions issued by the court in respect of the child or the guardianship;
- (c) the guardian has neglected the parental responsibility over a child.

(3) Where the court revokes a guardianship order, the court shall upon considering submissions by the Minister responsible for children affairs, place the child under alternative care.

43L. Appeals.

A person aggrieved by a decision of the High Court under this Part, may appeal to the Court of Appeal.

43M. Offences by the administrator of the estate of a child.

- (1) An administrator of the estate of a child who—
- (a) neglects, misappropriates, wastes or occasions loss or damage to any asset forming part of the estate of a child;
 - (b) fails to submit to court, or the parent or guardian of the child any account or inventory required by law; or
 - (c) produces an inventory or an account which is false in any material particular, knowing it to be so,

Commits an offence and is liable, on conviction, to a term of imprisonment not exceeding five years or to a fine not exceeding one hundred and twenty currency points or both.

(2) The court may in addition to the penalty imposed under subsection (1) require the person so convicted to make good any loss or damage caused.

(3) The court shall exercise its discretion in determining the modalities of accountability in guardianship matters.

13. Amendment of section 45 of the principal Act.

Section 45 of the principal Act is amended in subsection (4) by substituting for “thirty six months” the words “twelve months”.

14. Amendment of section 46 of the principal Act

Section 46 of the principal Act is amended—

- (a) in subsection (1) (a) by substituting for “three years” the words “one year”;
- (b) in subsection (1) (b) by substituting for “thirty six months” the words “one year”;

- (c) by inserting immediately after subsection (3) the following new subsections—

(4) The court may, in exceptional circumstances, waive any of the requirements specified in subsection (1).

(5) The following persons may facilitate the courts of law with information to protect the best interest of the child—

- (a) advocates;
- (b) Probation and Social Welfare Officers; or
- (c) a guardian ad litem for children.

(6) Notwithstanding the provisions of this section, inter-country adoption shall be considered as the last option available to orphaned, abandoned or legally relinquished children, along a continuum of comprehensive child welfare services.

(7) For purpose of this section, continuum of comprehensive child welfare services means a broad range of preventive services and community based family-centered alternative care options which may include—

- (a) family preservation;
- (b) kinship care;
- (c) foster care;
- (d) institutionalisation.

15. Insertion of section 46A in the principal Act.

The Principal Act is amended by inserting immediately after section 46 the following—

“46A. Rescission of an adoption order.

(1) The court may, in exceptional circumstances, rescind an adoption order on application by—

- (a) the adopted child;
- (b) a parent of the adopted child or other person who was a guardian in respect of the child immediately before the adoption;
- (c) the adoptive parent of the child;
- (d) any person who consented to the adoption;
- (e) the Minister in the case of an inter-country adoption;
or
- (f) any other person with justifiable reason.

(2) An adoption order may be rescinded only if—

- (a) rescission of the order is in the best interest of the child; or
- (b) the order was obtained through fraud or misrepresentation.

(3) Where an adoption order is rescinded—

- (a) the adoption order shall cease to apply in respect of the child concerned; and
- (b) all responsibilities, rights and other matters which had been previously terminated by the adoption order in respect of the child shall be restored.

(4) When rescinding an adoption order, the court may—

- (a) make an appropriate placement order in respect of the child concerned;
- (b) order that the child be kept in temporary safe custody until an appropriate placement order can be made; or
- (c) make an ancillary order where necessary for restoration of the child.

16. Replacement of section 56 of the principal Act.

For section 56 of the principal Act there is substituted the following—

“56. Approval of homes.

(1) A government or non-governmental home set up for the purposes of caring for children shall be approved by the Minister, in consultation with the probation and social welfare officer within six months of receipt of application for approval.

(2) A person who establishes or runs a home without the approval of the Minister under this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

(3) Where the offence under subsection (2) is committed by a body corporate and it is proved that the offence is committed with the consent or connivance of, or is attributable to the negligence on the part of a director, manager, secretary or other similar officer of that body corporate or any person who purports to act in any such capacity, he or she shall be personally liable to the penalty prescribed under subsection (2).”

17. Amendment of section 73 of the principal Act.

Section 73 of the principal Act is amended by substituting for subsection (1) the following—

“(1) The court may, on application by a sole applicant or joint applicants, grant custody of a child on such conditions as may be determined by the court”.

18. Insertion of new sections 73A and 73B to the principal Act.

The principal Act is amended by inserting immediately after section 73 the following new sections—

“73A. Interim custody order.

(1) A probation and social welfare officer, mother, father or guardian of a child may apply to the family and children court for an interim custody order pending the determination of custody of the child by the court.

(2) The application for interim custody shall be supported by affidavit of the applicant.

(3) The court may issue an interim custody order, where the court is satisfied that—

(a) the child is suffering or likely to suffer harm if the order for interim custody is not issued; or

(b) the order is in the best interests of the child.

(4) An interim custody order may, where appropriate, contain any direction, prohibition or award.”

73B. Custody by agreement.

(1) The parents of a child may enter into a written agreement to determine which of them shall have custody of the child.

(2) Court may recognize an agreement made between the parents of a child giving the custody of the child to one of the parents, except where court finds that enforcing the agreement would not be in the best interest of the child.

(3) Court shall only recognise an agreement under subsection (1), if it is satisfied that there was no duress or fraud involved in making the agreement.”

19. Amendment of section 88 of the principal Act.

Section 88 of the Principal Act is amended by inserting the following new subsections—

“(2) In determining criminal responsibility or an order for a child offender, the police, prosecutor or a person presiding over the matter shall consider the age of the person at the time the offence was allegedly committed;

(3) Subject to subsection (2), court shall determine the age based on a full assessment of all available information, giving due consideration to official documentation including a birth certificate, school records, health records, statements certifying age from the parent or child, or medical evidence.

(4) Specialized protection for children under this Act shall apply to all children below the age of 18 years;

(5) A person shall be presumed to be a child if he or she claims or appears to be younger than 18 years old pending a conclusive determination of age by court.”

20. Amendment of section 91 of the principal Act.

Section 91 of the principal Act is amended as follows—

(a) in subsection (5)(a) by substituting for “six months” the words “three months”; and

- (b) in subsection (5)(b) by substituting for “three months” the words “forty five days”.

21. Amendment of section 94 of the principal Act.

Section 94 of the principal Act is amended by inserting immediately after subsection (6) the following—

“(6a) For avoidance of doubt, a person who has attained the age of eighteen at the time of sentencing shall serve the sentence in an adult detention centre.”

22. Insertion of new section 95A to the principal Act.

The principal Act is amended by inserting a new section immediately after section 95 as follows—

“95A. Appointment and supervision of probation and social welfare officers.

The Minister responsible for gender, labour and social development in consultation with the district service commission, shall be responsible for the appointment and supervision of probation and social welfare officers.”

23. Amendment of section 104 of the principal Act.

Section 104 of the principal Act is amended—

- (a) by substituting for subsection (2) the following—

“(2) Where a child is tried jointly with an adult in the High Court, the High Court shall make an appropriate order under this Act.”

- (b) by inserting immediately after subsection (3) the following—

“(4) A child shall not be sentenced to death.”

24. Insertion of new section 104A to the principal Act.

The principal Act is amended by inserting immediately after section 104 a new section as follows—

“104A. Death sentence for a person below eighteen years.

(1) A death sentence shall not be pronounced on or recorded against a person convicted of an offence punishable by death, if it appears to the court that at the time when the offence was committed the convicted person was below the age of eighteen years.

(2) The court shall, in lieu of the death sentence, order the person to be detained in safe custody, pending an order made by the Minister under subsection (4).

(3) The court shall submit to the Minister a record of the proceedings or a certified copy of the record of proceedings and a report signed by the presiding judge containing any recommendation or observations made by the presiding judge.

(4) Upon consideration of the record of proceedings and the report submitted under subsection (3), the Minister responsible for justice may order or direct that the person convicted shall be detained in a prison or any other place of custody.

(5) An order made under subsection (4) may be varied or discharged by the Minister responsible for justice and it shall be sufficient authority for the detention of the person to a place specified in the order.

(6) A person removed or detained in accordance with an order made under subsection (4) shall be deemed to be in lawful custody.

(7) The Minister, shall within thirty days of receipt of the certified record as provided for in subsection (2) remit the record to court for a sentence.

(8) Court shall move the Minister responsible for justice to show cause why the juvenile should not be released if the Minister contravenes subsection (4) and (7).

(9) Section 105 of the Trial on Indictment Act is repealed.”

25. Insertion of new section 106A to the principal Act.

The principal Act is amended by inserting immediately after section 106 a new section as follows—

“106A. Corporal punishment in schools.

(1) A person of authority in any institution of learning shall not subject a child to any form of corporal punishment.

(2) A person who subjects a child to corporal punishment commits an offence and is liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred currency points or both.”

26. Insertion of new sections 114, 115 and 116 in the principal Act.

The principal Act is amended by inserting new sections 114, 115 and 116 as follows—

114. Vesting of assets and liabilities, subsisting contracts and pending proceedings

(1) All property, except any such property as the Minister may determine, which immediately before the commencement of this Act was vested in the National Council for Children shall, on the date of commencement of this Act, and without further assurance, vest in the authority subject to all interests, liabilities, charges, obligations and trusts affecting that property.

(2) Except as otherwise provided in subsection (1) in relation to property, all contracts, debts, engagements and liabilities of the National Council for Children shall remain vested in the Government and may be enforced by or against the Government.

(3) All legal proceedings and claims pending in respect of the National Council for Children shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced if this Act had not been enacted.

115. Repeal of the National Council for Children Act, Cap. 60.
The National Council for Children Act Cap. 60 is repealed.”

116. Repeal of the First Schedule to the Principal Act.
The First Schedule to the principal Act is repealed.

27. Insertion of the Third Schedule to the principal Act.
The principal Act is amended by inserting immediately after the Second Schedule the following—

“Third Schedule
Form 1

Section 43B

THE REPUBLIC OF UGANDA

THE CHILDREN ACT CAP.59

PETITION FOR GUARDIANSHIP

IN THE HIGH COURT OF UGANDA

In the matter of the Children Act and in the matter of _____
(*name of Child*) of _____ village of
_____ Sub county.

The petition of _____ (*petitioner*) of
_____ (*address in Uganda*
and address in foreign country), (*and of the same address*) states as follows—

The petitioner(s) is (are) desirous of obtaining legal guardianship of the child _____ under the provisions of the Children Act .

The petitioner _____ of _____ (L.C.I zone) _____ (town) _____ is a citizen of _____ and stays in Uganda at the following address(es)

Address L.C.I

The co-petitioner _____ of _____ and has address

The petitioner _____ is unmarried (*was married*) to the co-petitioner _____, (at _____ on the _____ (day) _____ (month) _____(year) (which marriage is supported by evidence annexed).

The petitioner _____ is by occupation _____ and the co-petitioner _____ is by occupation a _____.

The petitioner _____ is _____ years of age(date of birth _____ (day) _____ (month) _____ (year), these dates supported by evidence of birth annexed)

The petitioner _____ is related to the child _____ follows _____ (*and the co-petitioner _____ is related to the child _____ (as follows)*) (or, the petitioner (s) _____ and _____ is not (*are not, nor is either of them*) related to the child.

The petitioner _____ annexes a certificate marked _____ that he/she does not have a criminal record _____ and affirms that he/she does not have a criminal record in Uganda or any other country.

The co-petitioner _____ annexes a certificate marked _____ that he/she does not have a criminal record _____ in Ugandan or any other Country.

The petitioner _____ attaches a recommendation concerning his/her suitability to adopt a child from _____ (recommender) of _____ the probation and welfare office/other authority (specify) in _____. Country of origin of the petitioner.

The co-petitioner _____ attaches a recommendation concerning his/her suitability to adopt a child from _____ (recommender) of _____ the probation and welfare office/other authority (specify) in _____ Country of origin of co-petitioner _____.

The petitioner(s) has (have) resident with him/her (them) the following children, namely, _____ (son), aged ____ years, _____ (daughter), aged _____ years, and (others) _____

The child _____ is—

- (a) Of the _____ sex:
- (b) Unmarried;
- (c) A child of _____ (father) of _____ Village _____ sub country _____ District and of _____ (mother) of _____ Village _____ sub county _____ District;

- (d) A citizen of _____;
- (e) _____ years of age, having been born at _____ the _____ (day) _____ (Month) _____ (year);
- (f) Resident at _____ village _____ Sub county _____ District;
- (g) now in the actual custody of _____ of _____ village or (L.C.V) _____ Sub county _____ Town or _____ District;
- (h) under the guardianship of _____ of _____ Village of (L.C.V) _____ Sub County or Town _____ District;(i) entitled to the following property

- (i) the following persons are liable to contribute to the support of the child-
 - (a) _____ of _____ village _____ Sub county _____ District;
 - (b) _____ of _____ Village _____ Subcounty _____ District;
 - (c) other _____

The petitioner(s) _____ and _____ annexes (annex) the following consent(s) marked No. _____, required under the Children Act

Name of person Relationship with Date of consent consenting child.

_____	_____
_____	_____
_____	_____

The child has not been the subject of a guardianship order or of an application or petition for a guardianship order (except that) (state order and application or petition, if any).

The petitioner(s) has not (have not nor has either of them) received or

agreed to receive and no person has made or given or agreed to make or give to the petitioner(s) (or either of them) any payment or reward in consideration of the guardianship of the child.

The petitioner(s) undertake(s) that—

- (a) He/she/they shall care for (*name of child*) _____ as though he/she/they were my/our own child.
- (b) He/ She/they shall bring him/her up in accordance with the _____ religion.
- (c) He/she/they shall look after his/her health and allow him/her to be medically examined as required by the district probation and social welfare office.
- (d) He/she/they shall 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.
- (e) He/she/they shall inform the district probation and social welfare office immediately if the child is ill, or is missing, or is involved in an accident, or is in any kind of trouble.
- (f) He/she/they shall inform the district and social welfare office immediately if he/she plans to change residence and address.
- (g) He/she/they understand(s) that an officer of the district probation and social welfare has the right to remove the child from my/our home in certain circumstances.

The petitioner(s) affirms (*affirm*) that a guardianship order made by this honorable court will be respected and recognized by _____ the country of origin of petitioner _____ (and _____ the country of origin of petitioner _____), and produces (*Produce*) a sworn annexed marked _____ to that effect.

It is proposed that the costs of the petition shall be paid by the petitioner(s) _____ and _____

The petitioner(s) prays (pray)

- (a) That an order for guardianship of the child.
 _____, by the petitioner(s) be made
 under the Children Act with all necessary directions;
- (b) That the cost of this petition be provided for as above-mentioned or
 otherwise as the court may direct; and
- (c) That such further or other order be made as the nature of the case may
 require.

Signed _____, Petitioner

Witnessed _____ (name)

_____ (occupation), of _____ (address)

Signed _____, Petitioner

Witnessed _____(name)

_____ (occupation), of _____

(address)

THE REPUBLIC OF UGANDA

THE CHILDREN ACT. CAP 59

GUARDIANSHIP REGISTER

Name of child (surname first) _____

Date of birth _____ Age _____ Sex _____

Religion _____

District of Origin _____

Names of Guardians _____

Name of biological father _____ *Alive/dead/unknown*

Name of biological mother _____ *Alive/dead/unknown*

Details of medical history, including immunization

(Attach a copy of the child’s immunization card)

Details of education

School (current) _____ class _____

Name of District probation and welfare officer

Address _____

District Probation and Welfare Officer’s Signature

Date:

Guardian.”

28. Insertion of the Fourth Schedule to the principal Act.

The principal Act is amended by inserting immediately after the third schedule the following—

“Fourth Schedule
Meetings of the board

1. Meetings of the board

(1) The board shall meet at least once every month at such place and such time as may be determined by the board.

(2) The chairperson shall preside at every meeting of the board and in his or her absence the members present may appoint a member from among themselves to preside at the meeting.

(3) The chairperson or, in his or her absence, a member appointed by the board to act in his or her place may at any time call a special meeting, upon a written request by a majority of the members.

(4) Notice of a board meeting shall be given in writing to each member at least five days before the day of the meeting, but an urgent meeting may be convened in less than five days’ notice, at the request of two or more members

2. Quorum

The quorum at a meeting of the Board is four members.

3. Decisions of the Board

All questions proposed at a meeting of the Board shall be decided by a simple majority of the votes of the members present and voting; and in case of an equality of votes, the person presiding shall have a casting vote in addition to that person’s deliberate vote.

4. A decision may be made by the Board without any meeting but by circulation of the relevant papers among the members and by the expression of the views of the majority of the members in writing; however, any member shall be entitled to require that the decision be deferred and the matter on which a decision is sought be considered at a meeting of the Board.

5. Board may co-opt members

The Board may invite any person to attend any of its meetings as a consultant and may co-opt any person to the Board but that person shall not vote on any matter before the Board.

6. Declaration of interest

(1) Any member of the board having pecuniary or other interest, directly or indirectly in any matter before the board shall, at that meeting, declare the nature of such interest and shall not take part in any discussion or vote on that matter, and if the Chairperson directs, the person shall withdraw from that meeting.

(2) The failure of any member of the board to disclose an interest in any matter before the board will cause the decision of the board to be voidable at the instance of the other members of the board, and that member shall be liable to be relieved of his or her duties.

(3) For purposes of determining whether there is a quorum, a member withdrawing from a meeting or who is not taking part under subparagraph (1) shall be treated as being present.

7. Minutes of proceedings

(1) The board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the board at the next meeting and signed by the chairperson of the meeting.

(2) The chairperson of the board shall submit to the Minister a copy of the minutes of each meeting of the board as soon as the minutes have been confirmed.

8. Board may regulate its procedure

Subject to this Act, the Board may regulate its own procedure and may make rules regarding the holding of meetings, notice to be given, the keeping of minutes or any other matter relating to its meetings.

