SIGNED this 29th day of December, 1989

J.S.MOMOH
PRESIDENT

NO.9 1989

THE ADOPTION ACT, 1989

Short title.

Being an Act to provide for the adoption of children in Sierra Leone; and for connected purposes.

BE IT ENACTED by the President and Members of Parliament in this present Parliament assembled, as follows:-

Date of Commencement

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

Interpretation

"adoption order" means an order made under subsection (1) of Section 2;
"court" means the High Court;
"father" , in relation to an illegitimate child means the natural father.
"juvenile" means a person who is under the age of seventeen years;
"parent" includes a father as defined by this Act, and a guardian.
"relative" in relation to a juvenile, means a grandparent, brother, sister, uncle or aunt, or son or daughter of an uncle or aunt, whether of the full blood or half blood or by affinity and includes:-
(a) where an adoption order has been made in respect of the juvenile or any other person, any person who would be a relative of the juvenile within the meaning of this definition if the adopted person were the child of the adopted born in lawful marriage.
(b) where the juvenile is illegitimate, the father of the juvenile and any person who would be a relative of the juvenile within the meaning of this definition if the juvenile were the legitimate child of his mother and father;
"will" includes any kind of testamentary disposition.

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2. (1) Subject to the provisions of this Act, the Court may, upon an application made in the prescribed manner, make an Order authorising the applicant to adopt a juvenile.

Power to make adoption orders.

(2) An adoption order may be made on the application of a husband and his wife authorising them jointly to adopt a juvenile.

(3) An adoption order may be made authorising the adoption of a juvenile by the mother or father of the juvenile, either alone or jointly with her husband or his wife as the case may be.

3. (1) An adoption order shall not be made unless the applicant or, in case of a joint application, one of the applicants-

Restriction on making adoption order

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

(b) has attained the age of twenty-one and is a relative of the juvenile, or

(c) is the mother or father of the juvenile.

(2) An adoption order shall not be made in favour of a sole applicant who is a male unless the juvenile is a son of the applicant or the court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order in such a case.

(3) Except as provided by section 2, an adoption order shall not be made authorising more than one person to adopt a juvenile.

(4) An adoption order shall not be made in respect of a juvenile unless-

(a) the applicant and the juvenile reside in Sierra Leone; and

(b) the juvenile has been continuously in the care and possession of the applicant for at least six consecutive months immediately preceding the date of the order; and

(c) the applicant has at least six months before the application for the adoption order notified the Chief Social Development Officer of his intention to apply for an adoption order.

4. (1) Subject to the provision of this section, an adoption order shall not be made except with the consent of every person who is a parent of the juvenile.

Consent of parents to adoption. .

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(2) The court may dispense with the consent of any parent of the juvenile if the court is satisfied that he has abandoned, neglected or persistently ill-treated the juvenile or that he cannot be found or is incapable of giving his consent or that his consent is unreasonably withheld.

(3) If, in the case of an application made within one year from the date of the commencement of this Act, it is shown to the satisfaction of the Court that during the period of four years ending with the date of the application the juvenile has been brought up, maintained and educated under any de facto adoption (whether by one person or by a husband and wife jointly) the Court may dispense with the consent of any parent of the juvenile.
(4) Any consent under this section may be given either unconditionally or subject to conditions with respect to the religious persuasion in which the juvenile is to be brought up without knowing the identity of the applicant for the adoption order; and where consent so given by any person is subsequently withdrawn on the grounds only that he does not know the identity of the applicant, his consent shall be deemed for the purpose of this section to be unreasonably withheld.

(5) While an application for an adoption order in respect of a juvenile is pending in any court, any parent of the juvenile who has signified his consent to the making of an adoption order in pursuance of the application shall not be entitled, except with the leave of the court, to remove the juvenile from the care and possession of the applicant, and in considering whether to grant or refuse such leave the court shall have regard to the welfare of the juvenile.

5. (1) Where it appears to the court that any person who is not the parent of the juvenile has, under any order of a court or agreement, or under customary law or otherwise, any right or obligation in respect of the juvenile the court may, if it thinks fit, require that that person's consent shall be obtained before the adoption order is made.

Other consents.

(2) Where a married man or woman is the sole applicant for an adoption order, the Court may, if it thinks fit, require that the consent of any wife or husband of the applicant, as the case may be, be obtained before the adoption order is made.

(3) It shall be the duty of the Chief Social Development Officer to prepare a report to assist the court on an application for an adoption order to determine whether any person who is not a parent of the juvenile has any rights or obligations in respect of the juvenile and whether that person's consent ought to be obtained for the adoption order.

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6. (1) The court, before making an adoption order shall be satisfied- **Functions of Court as to Adoption orders.**

(a) that every person whose consent is required under section 4, and whose consent is not dispensed with, has consented to and understands the nature and effect of the adoption order for which the application is made, and in particular in the case of any parent, understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental right;

(b) that the order, if made; will be for the welfare of the juvenile, due consideration for this purpose being given to the wishes of the juvenile, having regard to the age and understanding of the juvenile; and

(c) that 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 except such as the Court may order.

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

7. (1) Subject to the provisions of this section, the court may, upon any application for an adoption order, postpone the determination of the application ad make an interim order giving the custody of the juvenile to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision for the welfare of juvenile and otherwise as the Court may think fit. **Interim orders.**

(2) The court shall impose as conditions under subsection (1)-

(a) that the juvenile shall be under the supervision of an officer appointed by the Chief Social Development Officer; and

(b) that the juvenile shall not be taken out of Sierra Leone without the leave of the Court.

(3) All such consents as are required to an adoption order shall be necessary for an interim order but subject to a like power on the part of the Court to dispense with any such consent.

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(4) An interim order shall not be made in any case where the making of an adoption order would be unlawful by virtue of subsection (4) of Section 3.

(5) An interim order shall not be deemed to be an adoption order within the meaning of this Act.

8. Where the applicant or, in the case of a joint application either of the applicants is not a citizen of Sierra Leone the Court shall in exercise of its powers under Section 7 postpone the determination of the application and make an interim order for a period of not less than six months.

Application by a person who is not a citizen of sierra Leone.

9. An adoption order or an interim order may be made in respect of a juvenile who has already been the subject of an adoption order and the adopter under the previous adoption shall, if alive, be deemed to be the parent of the juvenile for all the purposes of this Act.

Children previously adopted

10. (1) An application for an adoption order shall be made to the Court.

Jurisdiction and procedure

(2) The Chief Justice may make rules in regard to any matter to be prescribed under this Act and dealing generally with all matters of procedure and incidental matters arising out of this Act or for carrying this Act into effect.

(3) Rules under this section shall, among other things, provide-

(a) for the proceedings to be otherwise than in open court, except in such exceptional circumstances as may be provided for by the rule;

(b)for the admission of documentary evidence of any consent required under section 4 and section 5;

(c) for the admission in evidence of a certified copy of any entry in the Adopted Children Register;

(d)prescribing the form of the direction to be given in an adoption order as to making an entry in that Register, and the manner in which the making of an adoption order shall be communicated to the Administrator and Registrar-General;

(e)for requiring the Chief Social Development Officer to represent the interests of the juvenile in any proceedings with respect to an adoption order or an interim order;

(f)for requiring the Chief Social Development Officer to prepare for the consideration of the court on an application for an adoption order a report for the assistance of the court

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in determining whether the order will be for the welfare of the juvenile.

(g)as to searches in the Adopted Children Register and the fee to be charged in respect of the services made available in connection with that Register.

(h)for recording adoptions against entries in the Register of Births.

11. (1) On any decision by a court on an application for the making of of an adoption order, other than a decision to postpone the application and make an interim order, any person aggrieved may, subject to the rules of court and subject to the provisions of the Courts Act, 1965, appeal to the Court of Appeal. **Appeals.** **Act: No. 31 of 1965.**

(2) On any decision of the Court on an application for an adoption order, any person aggrieved may appeal to the Court of Appeal.

12. (1) Upon an adoption order being made- **Right and duties of parents and other persons.**

(a) all right, duties, obligations and liabilities, including any rising under customary law and practice of parents of the juvenile, or of any other person in relation to the future custody, maintenance and education of the juvenile (including all rights to appoint a guardian and to consent or give notice of dissent to marriage) shall be extinguished; and

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

(2) In respect of custody, maintenance and education, the juvenile shall stand to the adopter exclusively in the position of a child born to the adopter in lawful marriage.

(3) In a case where a husband and his wife are the adopters, they shall in respect of the custody, maintenance and education of the juvenile, and for for the purpose of the jurisdiction of any Court make orders as to the custody and maintenance of and right of access to the juvenile, stand to each other and to the juvenile in the same relation as they would have stood if they had been the lawful father ad mother of the juvenile and the juvenile shall stand to them respectively in the same relation as to a lawful father and mother respectively.

13. Where, at any time after the making of an adoption order, the adopter or the adopted person or any other person dies intestate in respect of **Intestacies.**

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any property of which he might have disposed of by will, that property shall devolve in all respects as if he the adopted person were the child of the adopter born in lawful marriage and were not the child of any other person.

14. (1) In any disposition of property, whether or not reduced to writing, made after the date of an adoption order- **Construction of settlement and wills.**

(a) any reference whether expressed or implied to the child or children of the adopter shall, unless the contrary intention appears, be constructed as, or as including, a reference to the adopted person; and
(b) any reference (whether expressed or implied) to a person related to the adopted person in any degree shall, unless the the contrary intention appears, be constructed as a reference to the person who would be related to him in that degree if he were the child of the adopter born in lawful marriage and were not the child of any other person.

(2) A disposition made by will executed before the date of the adoption order shall not be treated for the purposes of this section as made after that date by reason only that the will is confirmed by codicil executed after that date.

15. (1) Notwithstanding anything in sections 13 and 14, trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein, and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution, but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person other than a purchaser without notice, who may have received it.

(2) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of sections 13 an 14, in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent order, and in relation to any disposition of property made after that date.

16. (1) An adoption order shall not have effect to make the adopted person a member of any member of any clan, lineage or other group recognised under customary law and practice; but if the adopter is a person subject to customary law and practice then, as from the date of the adoption order, the adopted person shall be a person subject to customary law and practice and all such rules of customary law and practice (including those relating to intestacy) as applied in the case of the adopter shall apply in the case of the **Provisions concerning customary law.**

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adopted person.

(2) Except as provided by subsection (1), a person adopted under an adoption order shall not, after the date of the adoption order, be a person subject to customary law and practice and except as so provided, no rules of customary law and practice shall apply in his case.

(3) In the case of a joint adoption by a husband and wife, references in this section to the adopter shall be taken as references to the husband.

PART III - MISCELLANEOUS

17. Where an adopption order is made in respect of a juvenile in respect of whom a fit person order made by a juvenile court is in force, committing the juvenile to the care of any person, the fit person order shall cease to have effect. **Effect on fit persons orders.**

18. (1) The Administrator and Registrar-General shall maintain at the office of Administrator and Registrar-General a register to be called the Adopted Children Register in which shall be made such entries as may be directed to be made therein by adoption orders but no other entries. **Adopted children register.**

(2) The Administrator and Registrar-General may by Public Notice make rules with respect to the Adopted Children Register and with respect to entries in the Register of Births relating to adopted persons and , in particular, rules with respect to amendments and rectifications of the Adopted Children Register.

(3) The Administrator and Registrar-General shall, in addition to the Adopted Children Register, keep such other Register and books, and make such entries therein, as may be necessary to record and make traceable connection between any entry in the Register of Births which has been marked "adopted" in pursuance of rules under this section, and any corresponding entry in the adopted children register, but the registers and books kept under the provisions of this subsection shall not, not shall any index thereof be open to public inspection and search, nor, except under any order by the court, shall the administrator and Registrar-General furnish any person with any information contained in, or with any copy or extract from, such registers or books.

19. (1) it shall not be lawful for an adopter, or for a parent of a juvenile, to receive, except with the sanction of the court, any payment or other reward in the consideration of the adoption of the juvenile under this Act, or for an person to make or give or agree to make or give to an adopter or parent any payment or reward the receipt of which is prohibited by this subsection. **Prevision of certain payments.**

(2) It shall not be lawful for any person who is not the parent of a juvenile to receive or receive any payment or other reward for making or facilitating any arrangements under which a juvenile is placed in the

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care and possession of a person who is also not the parent of the juvenile, whether or not the arrangements will lead to the adoption of the juvenile.

(3) A person who contravene this section shall be liable on summary conviction to imprisonment for a term not exceeding six months, to affine not exceeding five thousand leones, or to both such fine and imprisonment.

20. (1) Except under the authority of an order made under section 21, it shall not be lawful for any person to permit, or to cause or procure, the care and possession of a juvenile to be transferred to a person who is resident outside Sierra Leone and who is not the guardian or a relative of the juvenile, if he knows or had reason to believe that the person to whom the care and possession of the juvenile is transferred has entered into any agreement or arrangement with a parent of the juvenile or with any other party which will or may lead to the adoption of the juvenile under the law of any country outside Sierra Leone.

Restriction on sending juvenile abroad for adoption.

(2) A person who contravenes the provisions of this section shall be liable on conviction to a fine of not less than twenty thousand Leone or to imprisonment for a term not exceeding two years, or Both such fine and imprisonment.

21. (1) Subject to the provisions of this section, the court may, upon the recommendation of the chief social development officer, and juvenile abroad for adoption.

Order to on sending.

and subject to such conditions and restrictions as it may deem fit, make an order authorising the care and possession of the juvenile for who an adoption order has been made to be transferred to a person resident outside Sierra Leone.

(2) An order shall not be made under this section unless the court is satisfied that any person whose consent is required under section 4 for the making of an adoption order has in fact consented to the application under this section:

(3) An order shall not be made under this section unless the court is satisfied that the person to whom the care ad possession of the juvenile is proposed to be transferred is a suitable person to be entrusted therewith, and the transfer is likely to be for the welfare of the juvenile, due consideration, for this purpose, being given to the wishes of the juvenile, having regard to the age and understanding of the juvenile.

Passed in Parliament this 21st day of December, in the year of Lord one thousand nine Hundred and eighty-nine.

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C.B. FOFANA
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill Which has passed Parliament and found by me t be a true and correctly printed.

C.B. FOFANA
Clerk of Parliament.

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