

434 Act 19

Child (Protection and Adoption)
(Amendment)

2011



GRENADA

ACT NO. 19 OF 2011**I assent,**CARLYLE ARNOLD GLEAN
Governor-General.

15th September, 2011.

AN ACT to amend the Child (Protection and Adoption)
Act, No. 20 of 2010.*[23rd September, 2011].*BE IT ENACTED by the Queen's Most Excellent Majesty,
by and with the advice and consent of the Senate and House
of Representatives of Grenada, and by the authority of the
same as follows—

Short title.

1. This Act may be cited as the**CHILD (PROTECTION AND ADOPTION)
(AMENDMENT) ACT, 2011**and shall be read as one with the Child (Protection and
Adoption) Act No. 20 of 2010, hereinafter referred to as the
principal Act.

Amendment of
section 2 of
Principal Act.

2. Section 2 of the principal Act is amended by repealing the definition of “court”, and substituting the following definition—

““Court” means, the High Court;”

Amendment of
section 10 of
principal Act.

3. Section 10 of the principal Act is amended—

- (a) in paragraph (i) of subsection 1 by deleting the word “and”;
- (b) by repealing paragraph (j) of subsection (1) and substituting the following paragraph—
 - (j) three persons appointed from amongst non-governmental organizations, concerned with the welfare and safety of children; and
- (c) inserting after paragraph (j) the following paragraph—
 - (ja) a person with a financial background.
- (d) in subsection (2) by deleting the words “to (g)” and substituting the words “and (b)”.

Amendment of
section 15 of
principal Act.

4. Section 15 of the principal Act is amended by deleting the word “seven” and substituting the word “nine”.

Repeal of Part
VIII of principal
Act.

5. Part VIII of the principal Act is repealed and substituting the following Part—

“PART VIII**CHILD CARE SERVICES**Interpretation
of VIII.

88. For the purposes of this Part—

“licence” means a licence granted under this Part;

“licensed child care services” means a child care service licensed under this Part;

“licensee” means the holder of a licence under this Part.

Principles.

89. A decision made under this Part shall be made in accordance with the following principles—

- (a) the best interests of the child shall be of paramount consideration;
- (b) a child care service shall provide care that is safe, positive and nurturing;
- (c) a child care service shall promote the educational, social and developmental well-being of a child; and
- (d) a child shall receive services that meet his individual needs, including the needs of a child with a disability, and enhance his physical, emotional, cognitive, social and cultural development.

Conditions for
foster care
placements.

90.—(1) If a care order has been made pursuant to Part VII, which requires the placement of a child, the Director may place the child with a person who is willing to undertake the foster care of the child.

(2) A person who wishes to foster a child may, make an application to the Director, but a relative of a child without a parent or guardian may foster the child without first applying to the Director and, in such a case, this Part shall not apply.

(3) Foster care placements shall be made in accordance with such regulations as may be prescribed.

Licence to
operate child
care service.

91.—(1) A person shall not establish or maintain a child care service under this Act unless he has been granted a licence to do so by the Authority pursuant to this Part.

(2) A person shall not maintain a child care service at any address or location other than provided for in the licence granted pursuant to this Part unless he has obtained prior written permission from the Authority.

(3) A licence granted pursuant to the provisions of this part shall be valid for a period of three years from the date of its issue and may be renewed successively.

(4) A licence shall not be transferred into the name of any person other than the licensee unless the licensee obtains prior written permission from the Authority.

Application for
licence.

92. A person who desires to establish and maintain a child care service shall make an application to the Authority for a licence, in the prescribed form and manner.

Power of
Authority in
respect of
licences.

93.—(1) The Authority, in its discretion, may refuse to grant a licence in respect of any child care service, or may refuse to permit the transfer of a licence or to renew a licence.

(2) The Authority shall state its reason in writing, for refusing to grant a licence or for refusing to permit a transfer of a licence or to renew a licence.

(3) The Authority, in granting a licence, may attach thereto such terms and conditions as it may, in any case, think fit.

(4) Where, in connection with any licensed child care service, the Authority is of the opinion that there has been any contravention of any of the provisions of this Act or of the terms and conditions of any licence, the Authority may cancel any licence issued in respect of such child care service, or may apply to the court under section (97D) for an order or an interim order for the removal of any child from the child care service.

Appeals
against the
decision of the
Authority.

94.—(1) An appeal against the decision of the Authority shall lie to a Judge in chambers against any—

- (a) refusal of the Authority to grant, permit the transfer or renew a licence;
- (b) term or condition imposed in a licence;
- (c) decision of the Authority to suspend or cancel a licence.

(2) Every appeal under this section shall be lodged within fourteen days of the date on which the aggrieved party is notified of the refusal or decision of, or the terms or conditions imposed by, the Authority and the procedure on such appeal shall be in accordance with rules of Court made for such purposes.

(3) Where an appeal has been lodged in relation to the cancellation or suspension of a licence or a refusal to renew a licence, the Authority pending the determination of the appeal may apply to the Judge in chambers under section (97D) for an interim order for the removal of any child from the child care service to which the appeal relates.

Responsibility
of licensee and
staff of
licensed child
care service
and Director.

95.—(1) Where a child has been placed in a licensed child care service under a care order, the licensee, the manager and staff of the child care service shall have the parental responsibility of the child.

(2) It shall be the duty of every licensee, manager and staff of the child care service to—

- (a) act in the best interests of every child in his child care service;
- (b) ensure that every child in the child care service receives at all times adequate and humane treatment and education suitable to the needs of the child; and
- (c) ensure that all the provisions of this Part and all the terms and conditions of the licence and the directions of the Authority are at all times complied with in respect of the child care service.

(3) A licensed child care service shall provide substitute family care for a child until such time as the natural parent of the child is able to provide adequate care to meet the basic needs of the child or the child can be reunited with his family or arrangements are made for the custody or other permanent placement of the child.

(4) The licensee, manager and staff of the licensed child care service and the

Authority shall assist the child to become reunited with his natural parent.

(5) While a child is in the care of a child care service, the licensee, manager and staff of the licensed child care service and Director shall maintain—

- (a) contact with the parent or relatives of the child; and
- (b) contact between the child and the parent or relatives of the child.

(6) After a child has been returned from a licensed child care service, the Director shall keep in regular contact with the child and his family until the completion of any order made pursuant to Part VIII or until the discharge of the order.

(7) If a child is unable to return to his natural parent or to go to a foster parent, or has no parent or a foster parent, he shall, where possible, be cared for and assisted by a licensed child care service and the Director until adoption can be arranged for the child.

Notification of
reception of
child.

96.—(1) A licensee shall notify the Authority in writing of the name, sex, age and date of reception of every child who is received into his child care service, and every notification shall be made within forty-eight hours after the reception of the child into the

home and shall contain such further particulars as may from time to time be prescribed.

(2) The licensee shall, after such notification, supply the Authority with all such particulars relating to any such child as the Authority in any case may require.

Removal or
death of child.

97.—(1) Save where a child is removed from a child care service under an order of a court, a licensee shall not permit any child to leave or to be removed or transferred from, the licensee's child care service without first giving the Authority seven days notice in writing of such impending removal or transfer, and except in the case of a transfer to another licensed child care service without first obtaining the written permission of the Authority.

(2) A licensee shall forthwith notify the Authority if any child is absent for more than twenty-four hours from his child care service without the permission of the licensee.

(3) A licensee shall forthwith notify the Authority of the death of any child maintained in his child care service or of the removal of therefrom of any such child.

(4) A person shall not remove a child from a child care service without the consent of the licensee or the Authority.

(5) A person who contravenes subsection 2 commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months.

Power to
visit and
inspect child
care
services.

(97A) At all reasonable times—

- (a) any person authorized by the Authority; or
- (b) a police officer of the Royal Grenada Police Force,

may visit and inspect any child care service for the purpose of verifying that the child care service is licensed, ensuring that the home is properly administered and that the children therein are receiving adequate care and attention.

Warrant to
visit and
inspect child
care service.

(97B) Where any person empowered under the provisions of section (97A) to visit and inspect a child care service has been refused admission to a child care service or to any place where he has reason to believe that—

- (a) an unlicensed child care service is being maintained;
- (b) there is any contravention of any of the provisions of this Part, the terms or conditions of any licence or any directions given by the Authority thereunder; or

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- (c) any child is being maltreated, neglected or illegally detained,

he may apply to a Magistrate who may issue a warrant authorizing the person, or any police officer, to enter the child care service or place at any time of the day or night and, with such assistance and by such force as may be necessary, to carry out the visit and inspection.

Control over
licensed
child care
services.

(97C)—(1) If the Authority is satisfied that the management of any licensed child care service, or the accommodation provided for, or the treatment of, the children therein, is such as to endanger or to be likely to endanger their welfare, it may give in writing to the licensee concerned such general or special directions with respect to the matters aforesaid, or any of them, as it thinks necessary for the best interest of the child in the child care service.

- (2) A direction under this section—
- (a) may be served on the licensee concerned by being delivered personally to him, or being sent, by post or otherwise, in a letter addressed to him at the child care service; and
 - (b) may be varied by a subsequent direction, or may be withdrawn by the Authority.

Order to
remove child
from child
care
services.

(97D)—(1) Subsection (2) shall apply in any case where the Authority—

- (a) in exercise of the powers conferred on it by section 93 has cancelled or suspended a licence or has refused to renew a licence; or
- (b) has reasonable grounds for believing that—
 - (i) any child care service is maintained in contravention of any of the provisions of this Part, any of the terms and conditions of licence or of any direction given by the Authority thereunder; or
 - (ii) that any child is being maltreated, neglected or illegally detained in any child care service.

(2) The Authority shall, pursuant to subsection (1) apply to a Judge in Chambers for an order—

- (a) directing the Authority to remove any child from such child care service to a place of safety to be specified in the order; and
- (b) making any necessary arrangements for the future of the child.

(3) The Court may make interim orders under this section upon application made by the Authority under this Act.

(4) An order for the removal of any child under this section shall operate as an authority to any police officer or other person authorized to execute the order to enter any place at any time of the day or night and with such assistance and by such force as may be deemed necessary to remove the child therefrom.

Escape from
fit person.

(97E)—(1) A child who runs away from a person to whose care the child has been committed under this Act may—

- (a) be apprehended without a warrant by a police officer and brought back to that person if that person is willing to receive that child; and
- (b) if that person is not so willing, to be taken before a Court which may make an order in respect of that child as if the child has been brought before the Court in need of care and protection.

(2) A person shall not knowingly—

- (a) assist or induce a child to run away from a person to whose care the child has been committed; or

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- (b) harbour or conceal a child who has run away and prevent that child from returning.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months.

Recovery
order.

(97F)—(1) When a Court has been provided with information on oath that a child has been removed unlawfully from an approved child care service, it may make a recovery order.

(2) A recovery order may—

- (a) direct any person who is in possession of the child to produce the child on demand to any person authorized in the recovery order;
- (b) require the removal of the child by a person authorized in the recovery matter;
- (c) require any person who has information leading to the whereabouts of the child to disclose such information;
- (d) authorize a search by a police officer of the premises where

the child is believed to be staying; and

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

Application for recovery order.

(97G) Any of the following persons may apply for a recovery order—

- (a) the Director; or
- (b) the person who has parental responsibility for the child.

Escape from a licensed child care service.

(97H)—(1) A child who runs away from any licenced child care service to which he or she has been placed or from a person in whose care he has been placed under an emergency protection order, or committed by the Court on an order under this Act, may pending investigation—

- (a) be brought back to the licensed child care service or to the person from which or from whom he has run away; or
- (b) be put in another licensed child care service or a place of safety to be determined by the Director.

(2) As soon as possible, after the circumstance referred to in subsection (1) has

occurred, the Director shall interview the person in charge of the child care service or the person in whose care the child has been placed.

(3) A child referred to in subsection (1) may be returned to where he had been placed, or if that is not in the best interests of the child, he may be moved by the Director under a care order or otherwise returned to the Court for an application by the Director for a care order.

Court's power
to order
parent to
contribute.

(97I)—(1) Where a child who has a parent has been placed in a licensed child care service the Court may order the parent to contribute towards the maintenance of the child.

(2) The amount contributed pursuant to subsection (1) shall be reasonable and within the means of the parent and may be varied by the Court if there is a change in the circumstances of the parent or the child.

(3) An order for contribution made under subsection (1) shall remain in force as long as the child is in the child care service, but a person contributing may, at any time, apply to the court for the order to be varied or discharged on the ground that the circumstances have changed since the order was made.

Rights of
child.

(97J) A child in a child care service shall have the following rights—

- (a) to be fed, clothed and nurtured according to prescribed minimum standards and to be given the same quality of care as other children in the placement;
- (b) to be consulted and, according to the child's abilities, to express his views about significant decisions affecting that child;
- (c) to reasonable privacy and to possession of the child's personal belongings;
- (d) to be free from corporal punishment;
- (e) to be informed of the standard of behaviour expected by the caregivers and of the consequences of not meeting the standard;
- (f) to receive medical and dental care (including psychological care) when required;
- (g) to participate in social and recreational activities appropriate to the child's abilities and interests;
- (h) to receive religious instructions, and, as far as may be reasonably practicable, to participate in the religious activities, of the child's choice;

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- (i) to be provided with an interpreter if language or disability is a barrier to consulting with the child on decisions affecting the child's custody care;
 - (j) to privacy during discussions with a family member or a legal representative; and
 - (k) to be informed of the child's rights under this Act and the procedures available for enforcing those rights."

Amendment of
section 147 of
principal Act.

6. Section 147 of the principal Act is repealed and the following section is substituted—

"Appeals and
procedures.

147. An appeal from a decision of the Court shall lie with the Court of Appeal."

Passed in the House of Representatives this 18th day of July, 2011.

ADRIAN C.A. HAYES
Clerk to the House of Representatives.

Passed in the Senate this 29th day of July, 2011.

ADRIAN C.A. HAYES
Clerk to the Senate.

GRENADA