

CHILD'S RIGHT ACT, 2003



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CHILD'S RIGHTS ACT 2003

Act No. 26

AN ACT TO PROVIDE AND PROTECT THE RIGHTS OF A NIGERIAN CHILD ; AND OTHER
RELATED MATTERS, 2003

ENACTED by the National Assembly of the Federal Republic of Nigeria—

[31st July, 2003]

Commence-
ment.

PART I—BEST INTEREST OF A CHILD TO BE OF PARAMOUNT CONSIDERATION IN ALL ACTIONS

1. In every action concerning a child, whether undertaken by an individual, public or private body, institutions or service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration.

Best interest
of a Child to
be of
paramount
consideration
in all actions.

2.—(1) A child shall be given such protection and care as is necessary for the well-being of the child, taking into account the rights and duties of the child's parents, legal guardians, or other individuals, institutions, services, agencies, organizations or bodies legally responsible for the child.

A child to be
given
protection
and care
necessary
for his well-
being.

(2) Every person, institution, service, agency, organization and body responsible for the care or protection of children shall conform with the standards established by the appropriate authorities, particularly in the areas of safety, health, welfare, number and suitability of their staff and competent supervision.

PART II — RIGHTS AND RESPONSIBILITIES OF A CHILD

Rights of a Child

3.—(1) The provisions in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999, or any successive constitutional provisions relating to Fundamental Rights, shall apply as if those provisions are expressly stated in this Act.

Application
of Chapter
IV of 1999
Constitution.
etc.

(2) In addition to the rights guaranteed under Chapter IV of the Constitution of the Federal Republic of Nigeria 1999, or under any successive constitutional provisions, every child has the rights set out in this Part of this Act.

4. Every child has a right to survival and development.

Right to
survival and
development.

5.—(1) Every child has a right to a name and, accordingly, shall be given a name on his birth or on such other date as is dictated by the culture of his parents or guardian.

Right to
name.

(2) The birth of every child shall be registered in accordance with the provisions of the Birth, Death, etc. (Compulsory Registration) Act, 1992.

of this
to child
blue

Freedom of
association
and peaceful
assembly.

6. Every child has a right to freedom of association and peaceful assembly in conformity with the law and in accordance with the necessary guidance and directions of his parents or guardians.

Freedom of
thought,
conscience
and religion.

7.—(1) Every child has a right to freedom of thought, conscience and religion.

(2) Parents and, where applicable, legal guardians shall provide guidance and direction in the exercise of these rights having regard to the evolving capacities and best interest of the child.

(3) The duty of parents and, where applicable legal guardians to provide guidance and direction in the enjoyment of the right in subsection (1) of this section by their child or ward shall be respected by all persons, bodies, institutions and authorities.

(4) Whenever the fostering, custody, guardianship or adoption of a child is in issue, the right of the child to be brought up in and to practise his religions shall be a paramount consideration.

Right to
private and
family life.

8.—(1) Every child is entitled to his privacy, family life, home, correspondence, telephone conversation and telegraphic communications, except as provided in subsection (3) of this section.

(2) No child shall be subjected to any interference with his right in subsection (1) of this section, except as provided in subsection (3) of this section.

(3) Nothing in the provision of subsections (1) and (2) of this section shall affect the rights of parents and, where applicable, legal guardians, to exercise reasonable supervision and control over the conduct of their children and wards.

Right to
freedom of
movement.

9.—(1) Every child is entitled to freedom of movement subject to parental control which is not harmful to the child.

(2) Nothing in subsection (1) of this section shall affect the right of a parent, and where applicable, a legal guardian or other appropriate authority to exercise control over the movement of the child in the interest of the education, safety and welfare of the child.

Right to
freedom
from
discrimination.

10.—(1) A child shall not be subjected to any form of discrimination merely by reason of his belonging to a particular community or ethnic group or by reason of his place of origin, sex, religion or political opinion.

(2) No child shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

Right to
dignity of the
child.

11. Every child is entitled to respect for the dignity of his person, and accordingly, no child shall be—

(a) subjected to physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse ;

- (b) subjected to torture, inhuman or degrading treatment or punishment ;
- (c) subjected to attacks upon his honor or reputation ; or
- (d) held in slavery or servitude, while in the care of a parent, legal guardian or school authority or any other person or authority having the care of the child.

12.—(1) Every child is entitled to rest and leisure and to engage in play, sports and recreational activities appropriate to his age.

Right to
leisure,
recreation
and cultural
activities.

(2) Every child is entitled to participate fully in the cultural and artistic activities of the Nigerian, African and world communities.

(3) Every Government, person, institution, service, agency, organisation and body, responsible for the care and welfare of a child shall, at all times, ensure adequate opportunities for the child in the enjoyment of the rights provided for the child in subsections (1) and (2) of this section.

13.—(1) Every child is entitled to enjoy the best attainable state of physical, mental and spiritual health.

Right to
health and
health services.

(2) Every Government, parent, guardian, institution, service, agency, organisation or body responsible for the care of a child shall endeavour to provide for the child the best attainable state of health.

(3) Every Government in Nigeria shall—

- (a) endeavour to reduce infant and child mortality rate ;
- (b) ensure the provision of necessary medical assistance and health care services to all children with emphasis on the development of primary health care ;
- (c) ensure the provision of adequate nutrition and safe drinking water ;
- (d) ensure the provision of good hygiene and environmental sanitation ;
- (e) combat disease and malnutrition within the framework of primary health care through the application of appropriate technology ;
- (f) ensure appropriate health care for expectant and nursing mothers ; and
- (g) support, through technical and financial means, the mobilisation of national and local community resources in the development of primary health care for children.

(4) Every parent, guardian or person having the care and custody of a child under the age of two years shall ensure that the child is provided with full immunization.

(5) Every parent, guardian or person having the care of a child who fails in the duty imposed on him under Subsection (4) of this section commits an offence and is liable on conviction for—

- (a) a first offence, to a fine not exceeding five thousand Naira ; and
- (b) a second or any subsequent offence, whether in respect of that child or any other child, to imprisonment for a term not exceeding one month.

(6) The court may make, in substitution for or addition to any penalty stipulated under subsection (5) of this section, an order compelling the parent or guardian of a child to get the child immunized.

Right to
parental care,
protection
and
maintenance.

14.—(1) Every child has a right to parental care and, protection and accordingly, no child shall be separated from his parents against the wish of the child except—

- (a) for the purpose of his education and welfare ; or
- (b) in the exercise of a judicial determination in accordance with the provisions of this Act, in the best interest of the child.

(2) Every child has the right to maintenance by his parents or guardians in accordance with the extent of their means, and the child has the right, in appropriate circumstances, to enforce this right in the family court.

Right of a
child to free,
compulsory
and universal
primary
education,
etc.

15.—(1) Every child has the right to free, compulsory and universal basic education and it shall be the duty of the Government in Nigeria to provide such education.

(2) Every parent or guardian shall ensure that his child or ward attends and completes his—

- (a) primary school education ; and
- (b) junior secondary education.

(3) Every parent, guardian or person who has the care and custody of a child who has completed his basic education, shall endeavour to send the child to a senior secondary school, except as provided for in subsection (4) of this section.

(4) Where a child to whom subsection (3) of this section applies is not sent to senior secondary school, the child shall be encouraged to learn an appropriate trade and the employer of the child shall provide the necessities for learning the trade.

(5) A female child who becomes pregnant, before completing her education shall be given the opportunity, after delivery, to continue with her education, on the basis of her individual ability.

(6) Where a parent, guardian or person who has care and custody of a child, fails in the duty imposed on him under subsection (2) of this section, commits an offence and is liable—

- (a) on first conviction to be reprimanded and ordered to undertake community service ;
- (b) on second conviction to a fine of two thousand Naira or imprisonment for a term not exceeding one month or to both such fine and imprisonment ; and

(c) on any subsequent conviction to a fine not exceeding five thousand Naira or imprisonment for a term not exceeding two months or to both such fine and imprisonment.

(7) The provisions of this section shall not apply to children with mental disabilities.

16.—(1) Every child who is in need of special protection measures has the right to such measure of protection as is appropriate to his physical, social, economic, emotional and mental needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the affairs of the community.

Right of a child in need of special protection measure.

(2) Every person, authority, body or institution that has the care or the responsibility for ensuring the care of a child in need of special protection measures shall endeavour, within the available resources, to provide the child with such assistance and facilities which are necessary for his education, training, preparation for employment, rehabilitation, and recreational opportunities in a manner conducive to his achieving the fullest possible social integration and individual development and his cultural and moral development.

17.—(1) A child may bring an action for damages against a person for harm or injury caused to the child willfully, recklessly, negligently or through neglect before, during or after the birth of that child.

Right of unborn child to protection against harm, etc.

(2) Where the father of an unborn child dies intestate, the unborn child is entitled, if he was conceived during the lifetime of his father, to be considered in the distribution of the estate of the deceased father.

(3) Where the mother of an unborn child dies intestate before the child is delivered, the unborn child is entitled, if he survives his mother, to be considered in the distribution of the estate of the deceased mother.

18.—(1) No child shall enter into a contract, except as provided in this section.

Contractual rights of a child.

(2) Any contract, except a contract for necessities, entered into by a child for repayment of money lent or for payment of goods supplied to the child, shall be void.

(3) Accordingly—

(a) no action shall be brought against a child by a person after the child has attained the age of majority, to pay a debt contracted before majority or ratified on majority or any promise of contract made by the child before majority, whether or not there was new consideration for the promises or ratification after the child attained majority ;

(b) if a child who has entered into a contract for a loan which is void agrees after

majority to pay the loan, the agreement in whatever form it may be, shall be void so far as it relates to money which is payable in respect of the loan.

Responsibilities
of a child and
parent.

19.—(1) Every child has responsibilities towards his family and society, the Federal Republic of Nigeria and other legally recognized communities, nationally and internationally.

(2) A child shall, subject to his age and ability and such other limitations as may be contained in this Act and any other law, to —

- (a) work towards the cohesion of his family and community ;
- (b) respect his parents, superiors and elders at all times and assist them in case of need ;
- (c) serve the Federal Republic of Nigeria by placing his physical and intellectual abilities at his service ;
- (d) contribute to the moral well-being of the society ;
- (e) preserve and strengthen social and national solidarity ;
- (f) preserve and strengthen the independence and integrity of Federal Republic of Nigeria ;
- (g) respect the ideals of democracy, freedom, equality, humaneness, honesty and justice for all persons ;
- (h) relate with other members of the society, with different cultural values in the spirit of tolerance, dialogue and consultation ;
- (i) contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of Nigeria, African and world unity ; and
- (j) contribute to the best of his abilities, at all times and at all levels, to the solidarity of the African people and the human race.

Parent, etc.
to provide
guidance with
respect to
child's
responsibilities.

20. Every parent, guardian, institution, person and authority responsible for the care, maintenance, upbringing, education, training, socialization, employment and rehabilitation of a child has the duty to provide the necessary guidance, discipline, education and training for the child in his or its care such as will equip the child to secure his assimilation, appreciation and observance of the responsibilities set out in this Part of the Act.

PART III — PROTECTION OF THE RIGHTS OF A CHILD

Prohibition
of child
marriage.

21. No person under the age of 18 years is capable of contracting a valid marriage, and accordingly, a marriage so contracted is null and void and of no effect whatsoever.

Prohibition
of child
betrothal.

22.—(1) No parent, guardian or any other person shall betroth a child to any person.

(2) A betrothal in contravention of subsection (1) of this section is null and void.

23. A person—

- (a) who marries a child, or
- (b) to whom a child is betrothed, or
- (c) who promotes the marriage of a child, or
- (d) who betroths a child,

Punishment
for child
marriage and
betrothal.

commits an offence and is liable on conviction to a fine of ₦500,000 ; or imprisonment for a term of five years or to both such fine and imprisonment.

24.—(1) No person shall tattoo or make a skin mark or cause any tattoo or skin mark to be made on a child.

Tattoos and
skin marks.

(2) A person who tattoos or makes a skin mark on a child commits an offence under this Act and is liable on conviction to a fine not exceeding five thousand Naira or imprisonment for a term not exceeding one month or to both such fine and imprisonment.

25.—(1) No person shall—

- (a) expose or involve a child in the use of narcotic drugs and psycho tropic substances ; or
- (b) expose or involve a child in the production or trafficking of narcotic drugs or psycho tropic substances ; or

Exposure to
use,
production
and
trafficking of
narcotic
drugs, etc.

(2) A person who contravenes the provisions of subsection (1) or (2) of this section commits an offence and is liable on conviction to imprisonment for life.

USE OF CHILDREN IN OTHER CRIMINAL ACTIVITIES

26.—(1) No person shall employ, use or involve a child in any activity involving or leading to the commission of any other offence not already specified in this Part of the Act.

Use of
children in
other
criminal
activities.

(2) A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of fourteen years.

27.—(1) No person shall remove or take a child out of the custody or protection of his father or mother, guardian or such other person having lawful care or charge of the child against the will of the father, mother, guardian or other person.

Abduction,
removal and
transfer from
lawful
custody.

(2) A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction—

- (a) where the child is unlawfully removed or taken out of Federal Republic of Nigeria—

- (i) with intention to return the child to Nigéria, to imprisonment for a term of fifteen years, or
 - (ii) with no intention to return the child to Nigeria, to imprisonment for a term of twenty years.
- (b) where the child is unlawfully removed or taken out of the State in which the father, mother, guardian or such other person who has lawful care of the child is ordinarily resident, to imprisonment for a term of ten years, or
- (c) in any case, to imprisonment for a term of seven years.

CHILD LABOUR

28.—(1) Subject to this Act, no child shall be—

- (a) subjected to any forced or exploitative labour ; or
- (b) employed to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character ; or
- (c) required, in any case, to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development ; or
- (d) employed as a domestic help outside his own home or family environment.

(2) No child shall be employed or work in an industrial undertaking and nothing in this subsection shall apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority.

(3) Any person who contravenes any provision of subsection (1) or (2) of this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand Naira or imprisonment for a term of five years or to both such fine and imprisonment.

(4) Where an offence under this section is committed by a body corporate, any person who at the time of the commission of the offence was a proprietor, director, general manager or other similar officer, servant or agent of the body corporate shall be deemed to have jointly and severally committed the offence and may be liable on conviction to a fine of two hundred and fifty thousand Naira.

29. The provisions relating to young persons in sections 58, 59, 60, 61, 62 and 63 of the Labour Act shall apply to children under this Act.

Prohibition
of
exploitative
labour.

Application
of Labour
Act, Cap.
198 of LFN
1990.

BUYING, SELLING, ETC. FOR THE PURPOSE OF BEGGING AND PROSTITUTION, ETC.

30.—(1) No person shall buy, sell, hire, let on hire, dispose of or obtain possession of or otherwise deal in a child.

(2) A child shall not be used—

(a) for the purpose of begging for alms, guiding beggars, prostitution, domestic or sexual labour or for any unlawful or immoral purpose ; or

(b) as a slave or for practices similar to slavery such as sale or trafficking of the child, debt bondage or serfdom and forced or compulsory labour ;

(c) for hawking of goods or services on main city streets, brothels or highways ;

(d) for any purpose that deprives the child of the opportunity to attend and remain in school as provided for under the Compulsory, Free Universal Basic Education Act ;

(e) procured or offered for prostitution or for the production of pornography or for any pornographic performance ; and

(f) procured or offered for any activity in the production or trafficking of illegal drugs and any other activity relating to illicit drugs as specified in the National Drug Law Enforcement Agency Act.

Prohibition of buying, selling, hiring or otherwise dealing in children for the purpose of hawking or begging for alms or prostitution, etc.

Cap. 253
LFN 1990.

(3) A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of ten years.

UNLAWFUL SEXUAL INTERCOURSE, ETC.

31.—(1) No person, shall have sexual intercourse with a child.

(2) A person who contravenes the provision of subsection (1) of this Section commits an offence of rape and is liable on conviction to imprisonment for life.

(3) Where a person is charged with an offence under this Section, it is immaterial that—

(a) the offender believed the person to be of or above the age of eighteen years ; or

(b) the sexual intercourse was with the consent of the child.

Unlawful sexual intercourse with a child, etc.

OTHER FORMS OF SEXUAL ABUSE AND EXPLOITATION

32.—(1) A person who sexually abuses or sexually exploits a child in any manner not already mentioned under this Part of this Act commits an offence.

(2) A person who commits an offence under subsection (1) of this section is liable on conviction to imprisonment for a term of fourteen years.

Forms of sexual abuse and exploitation.

OTHER FORMS OF EXPLOITATION

33.—(1) A person who exploits a child in any other form or way not already mentioned in this Part of this Act which is prejudicial to the welfare of the child commits an offence.

Other forms of exploitation.

(2) A person who commits an offence under subsection (1) of this Section is liable on conviction to a fine of five hundred thousand Naira or imprisonment to a term of five years, or to both such fine and imprisonment.

RECRUITMENT INTO THE ARMED FORCES

Prohibition
of
recruitment
of children
into the
Armed
Forces.

34.—(1) No child shall be recruited into any of the branches of the armed forces of the Federal Republic of Nigeria.

(2) The Government or any other relevant agency or body shall ensure that no child is directly involved in any military operation or hostilities.

HARMFUL PUBLICATION

Prohibition
of
importation
of harmful
publication.

35.—(1) No person shall import any harmful publication under this Act.

(2) A person who imports any harmful publication commits an offence and is liable on conviction to a fine of thirty thousand Naira or imprisonment for a term of three years or to both such fine and imprisonment.

Penalty for
harmful
publication.

36.—(1) A person who—

(a) prints, publishes, sells or lets on hire any harmful publication ; or

(b) has in his possession for the purpose of selling or letting on hire any harmful publication, commits an offence and is liable on conviction to a fine of fifty thousand Naira or imprisonment for a term of five years or to both such fine and imprisonment.

(2) Where a person is charged with an offence under this Section, it is immaterial that the person had not examined the contents of the publication and has no reasonable cause to suspect that the publication was one to which this Act applies.

Power to
issue warrant
of arrest,
summons,
search, etc.
for harmful
publications.

37.—(1) Where an information is brought before a court that a person has committed or is suspected of committing an offence under Sections 35 or 36 of this Act with respect to any harmful publication, the court may issue a warrant for the arrest of that person.

(2) The Court may, if satisfied by the information substantiated, on oath, that there is reasonable ground for suspecting that a person charged with or suspected of committing an offence has in his possession or under his control—

(a) copies of any harmful publication ; or

(b) any plate prepared for the purpose of printing copies of harmful publication or any photographic film prepared for that purpose, grant a search warrant authorizing a police officer named therein to enter (if necessary by force) any premises specified in the warrant and any vehicle, or shop or stall used by the said person for the purpose of any trade or business, and to search the premises, vehicle, shop or stall.

(3) The police officer on searching the premises, may seize any of the following items—

(a) any copy of the harmful publication and any other copies which the police officer has reasonable cause to believe to be harmful publication ; and

(b) any plate or photographic film which the police officer has reasonable cause to believe to have been prepared for the purpose of printing copies of any harmful publication.

38.—(1) The Court by or before which a person is convicted of an offence under section 35 or 36 of this Act may order for any copy of the harmful publication and any plate or photographic film prepared for the purpose of printing the harmful publication found in the possession of the convicted person under his control, to be forfeited.

Power of court to order forfeiture, etc.

(2) The power to order forfeiture under subsection (1) of this section shall not extend to a case where the accused person has successfully raised a defence against the charge.

(3) No order made under subsection (1) of this section by a Magistrate Court, or a High Court in case of an appeal from a Magistrate Court to the High Court, shall take effect—

(a) until the expiration of the ordinary time within which an appeal may be lodged, whether by giving notice of appeal or applying for a case to be stated for the opinion of the High Court ; or

(b) where an appeal is duly lodged, until the appeal is finally decided or abandoned.

(5) Before a forfeiture order is made under this section, the Court shall hear the author, copyright owner or main publisher of the harmful publication if he so wishes.

MISCELLANEOUS

39. Notwithstanding any jurisdictional limitation on the powers of a Magistrate Court and any other court in relation to the imposition of fines or terms of imprisonment contained in any law, a Magistrate Court or any other court before which the offences created in this Part of this Act are tried shall have the full jurisdictional powers to impose up to the maximum penalties prescribed for the offences created in this part of this Act.

Removal of jurisdictional limitation of magistrates, etc.

40. Any person in any other law securing the protection of the child, whether born or unborn, shall continue to apply and is hereby adopted for the protection of the child by this Act, notwithstanding that the provision has not otherwise been specifically provided for by this Act.

Application of Criminal Law provisions.

PART IV—PROTECTION OF CHILDREN

41.—(1) A State Government or an appropriate authority may apply to the Court for a child assessment order with respect to a child and the Court may make the order, if it is satisfied that—

Child
assessment
orders.

(a) the applicant has reasonable cause to suspect that the child is suffering, or likely to suffer, significant harm ;

(b) an assessment of the state of the health or development of the child or of the way in which the child has been treated, is required to enable the applicant to determine whether or not the child is suffering, or is likely to suffer, significant harm ; and

(c) it is unlikely that such assessment will be made, or be satisfactory, in the absence of an order under this section.

(2) A court may treat an application under this section as an application for an emergency protection order.

(3) No Court shall make a child assessment order if it is satisfied that—

(a) there are grounds for making an emergency protection order with respect to the child ; and

(b) it ought to make an emergency protection order rather than a child assessment order.

(4) A child assessment order shall—

(a) specify the date on which the assessment is to begin ; and

(b) have effect for such period, not exceeding nine days beginning with that date, as may be specified in the order.

(5) Where a child assessment order is in force with respect to a child it shall be the duty of any person who is in a position to produce the child to—

(a) produce him to such person as may be named in the order ; and

(b) comply with such directions relating to the assessment of the child as the Court thinks fits to specify in the order.

(6) A child assessment order shall contain an authority to the person carrying out the assessment, or any part of the assessment, to do so in accordance with the terms of the order.

(7) Notwithstanding subsection (6) of this section, if the child has sufficient understanding to make an informed decision, he may refuse to submit to medical or psychiatric examination or any other assessment.

(8) A child may only be kept away from home—

(a) in accordance with directions specified in the child assessment order ;

(b) if it is necessary for the purpose of the assessment ; and

(c) for such period or periods as may be specified in the assessment order.

(9) Where a child is to be kept away from home, the order shall contain such directions as the Court thinks fit with regard to the contact that the child must be allowed to have with other persons while away from home.

(10) A person making an application for a child assessment order shall, before the hearing of the application, take such steps as are reasonably practicable to ensure that notice of the application is given to—

(a) the parents of the child ;

(b) a person who, though not a parent of the child, has parental responsibility for the child ; or

(c) any other person having the care of the child ;

(d) a person in whose favour a contact is in force with respect to the child ;

(e) a person who is allowed to have contact with the child by virtue of an order made under section 55 of this Act ; or

(f) the child concerned.

(11) Rules of Court may make provision as to the circumstances in which—

(a) any of the persons mentioned in subsection (10) of this section ; or

(b) such other persons as may be specified in the Rules, may apply to the court for a child assessment order to be varied or discharged.

42.—(1) A State Government or an appropriate authority may apply to the Court for an emergency protection order with respect to a child and the Court may make the order if it is satisfied—

Emergency
protection
orders.

(a) that there is reasonable cause to believe that the child is likely to suffer significant harm if ;

(i) he is not removed to an Emergency Protection Centre or any other approved suitable accommodation provided by or on behalf of the applicant, or

(ii) he does not remain in the place in which he is then being accommodated ; and

(b) in the case of an application made by a State Government or any appropriate authority, that—

(i) the applicant has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm ;

(ii) enquiries with respect to the welfare of the child are being frustrated by access to the child being unreasonably refused to a person authorized to seek access ; and

(iii) the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.

(2) A person—

(a) seeking access to a child in connection with enquires of any kind mentioned in subsection (1) of this section ; and

(b) purporting to be a person authorized to do so, shall, on being asked to do so, produce some duly authenticated document as evidence that he is such a person.

(3) While an emergency protection order is in force, it—

(a) gives the applicant parental responsibility for the child ;

(b) operates as a direction to a person who is in a position to do so to comply with any request to produce the child to the applicant ; and

(c) authorizes the removal of the child at any time to accommodation provided by or on behalf of the applicant and his being kept there ; or

(d) prevents the child from being removed from any hospital, or other place, in which he was being accommodated immediately before the making of the order.

(4) Where an emergency protection order is in force, applicant shall—

(a) only exercise the power given by virtue of subsection (3) (c) or (d) of this section in order to safeguard the welfare of the child ;

(b) take only such action, in meeting his parental responsibility for the child, as is reasonably required to safeguard or promote the welfare of the child, having regard, in particular, to the duration of the order ; and

(c) comply with the requirements of any regulations made by the Minister for the purposes of this subsection.

(5) Where the Court makes an emergency protection order, it may give such directions as it considers appropriate with respect to—

(a) the contact which is, or is not, to be allowed between the child and any named person ; or

(b) medical or psychiatric examination or any other assessment of the child.

(6) Where a direction is given under subsection (5) (b) of this section, the child may, if he has sufficient understanding to make an informed decision, refuse to submit to the examination or other assessment.

(7) A direction given under subsection (5) (a) of this section may impose such conditions as the Court considers appropriate and a direction under subsection (5) (b) of this section may—

(a) prohibit the examination or assessment of the child ; or

(b) allow the examination or assessment of the child only when the Court so directs.

(8) A direction under subsection (5) of this section may be—

(a) given when the emergency protection order is made or at any time while it is in force ; and

(b) varied at any time of the application of any class of persons prescribed by Rules of Court for the purposes of this subsection.

(9) Where an emergency protection order is in force in respect of a child and the applicant has exercised the power conferred by—

(a) subsection (3) (c) of this section, but it appears to the applicant that it is safe for the child to be so returned ; or

(b) Subsection (3) (d) of this section, but it appears to the applicant that it is safe for the child to be allowed to be removed from the place in question, the applicant shall return the child or allow the child to be so removed, as the case may be.

(10) Where the applicant is required by subsection (9) of this section to return the child, the applicant shall—

(a) return the child to the care of the person from whose care the child was removed ; or

(b) if that is not reasonably practicable, return the child to the care of—

(i) a parent of the child, or

(ii) a person who, though not a parent of the child, has parental responsibility for the child, or

(iii) such other person as the applicant, with the agreement of the Court, considers appropriate.

(11) Where the applicant has returned a child or allowed a child to be removed as required by subsection (9) of this section, the applicant may again, exercise the powers conferred by subsection (3) (c) and (d) of this section at any time while the emergency protection order remains in force, if it appears to the applicant that a change in the circumstances of the case makes it necessary for him to do so.

(12) Where an emergency protection order is in force, the applicant shall, subject to any direction given under subsection (5) of this section, allow the child reasonable contact with—

(a) the parent of the child ;

(b) a person who, though not a parent of the child has parental responsibility for the child ;

(c) a person with whom the child was living immediately before the making of the order ;

(d) a person in whose favour a contact order is in force with respect to the child ;

(e) a person who is allowed to have contact with the child by virtue of an order made under section 55 of this Act ; and

(f) a person acting on behalf of any of the persons specified in paragraphs (a) to (e) of this subsection.

(13) Whenever it is reasonably practicable to do so, an emergency protection order shall name the child, and where it does not name the child it shall describe the child, as clearly as possible.

(14) A person who willfully obstructs a person exercising the power under subsection (3) (c) and (d) of this section to remove, or prevent the removal of a child, commits an offence and is liable on summary conviction to a fine of two thousand, five hundred Naira or imprisonment for a term of three months or to both such fine and imprisonment.

Duration of
emergency
protection
orders, etc.

43.—(1) An emergency protection order shall have effect for such period, not exceeding nine days, as may be specified in the order.

(2) Where the Court making an emergency protection order would, but for this subsection, specify a period of nine days as the period for which the order is to have effect, but the last of those nine days is a public holiday or a Sunday, the Court may specify a period which ends at noon on the first later day which is not a public holiday or a Sunday.

(3) Where an emergency protection order is made on an application under section 42 of this Act, the period of nine days mentioned in subsection (2) of this section shall begin with the first day on which the child was taken into police protection under section 44 of this Act.

(4) A person who—

(a) has parental responsibility for a child as a result of an emergency protection order ; and

(b) is entitled to apply for a care order with respect to a child, may apply to the Court for the extension of the period during which the emergency protection order is to have effect.

(5) On an application under subsection (4) of this section, the Court may extend the period during which the order is to have effect, by such period, not exceeding seven days, if it has reasonable cause to believe that the child concerned is likely to suffer significant harm if the order is not extended.

(6) An emergency protection order may only be extended once.

(7) Notwithstanding any enactment or rule of law which would otherwise prevent it from doing so, a court hearing an application for, or with respect to an emergency protection order may take account of—

(a) any statement contained in any report made to the Court in the course of, or in connection with, hearing ; or

(b) any evidence given during the hearing, which is, in the opinion of the Court, relevant to the application.

(8) Any of the following persons may apply to the Court for an emergency protection order to discharge—

(a) the child ; or

(b) a parent of a child ; or

(c) a person who has parental responsibility for the child ; or

(d) a person with whom the child was living immediately before making of the order.

(9) No application for the discharge of an emergency protection order shall be heard by the Court before the expiry of the period of seventy-two hours beginning with the making of the order.

(10) No appeal may be made against the making of, or refusal to make, an emergency protection order or against any directions given by the Court in connection with the emergency protection order.

(11) Subsection (8) of this section does not apply—

(a) where the person who would otherwise be entitled to apply for the discharge of the emergency protection order—

(i) was given notice, in accordance with the Rules of Court, of the hearing at which the order was made, and

(ii) was present at the hearing ; or

(b) to any emergency protection order, the effective period of which has been extended under subsection (5) of this section.

(12) A court making an emergency protection order may direct that the applicant may, in exercising any power which he has by virtue of the order, be accompanied by a registered medical practitioner, registered nurse or registered health visitor, if he so chooses.

44.—(1) Where the specialized children police in a State has reasonable cause to believe that a child is otherwise likely to suffer significant harm, a specialized children police officer may take the child into police protection by—

(a) removing the child to an Emergency Protection Centre or any other approved

Children
taken into
police
protection in
cases of
emergency.

suitable accommodation and keeping the child there ; or

(b) taking such steps as are reasonable to prevent the child from being removed from any hospital, or other place, in which the child is then being accommodated.

(2) As soon as is reasonably practicable after taking a child into police protection, the police officer concerned shall—

(a) inform the State Government within whose area the child was taken of the steps that have been, and are to be taken with respect to the child under this section and the reasons for taking those steps ;

(b) give details of the case to the appropriate authority within whose area the child is ordinarily resident, that is, the appropriate authority of the place in which the child is being accommodated ;

(c) inform the child, if he appears capable of understanding, of—

(i) the steps that have been taken with respect to him under this section and of the reasons for taking those steps ; and

(ii) further steps that may be taken with respect to him under this section ;

(d) take such steps as are reasonably practicable to discover the wishes and feelings of the child ;

(e) secure that the case is enquired into by an officer designated for the purpose of this section by the officer in charge of the specialized children police in the State concerned ; and

(f) where the child was taken into protection by being removed to an accommodation which is not provided—

(i) by or on behalf of a State Government,

(ii) as a refuge, in compliance with the requirements of section 48 of this Act, secure that he is moved to an Emergency Protection Centre or any other approved suitable accommodation which is so provided.

(3) As soon as is reasonably practicable after taking a child into police protection, the police officer concerned shall take such steps as are reasonably practicable to inform—

(a) the parents of the child ;

(b) a person who, though not a parent of the child, has parental responsibility for the child ; and

(c) any other person with whom the child was living immediately before being taken into police protection, the reasons for taking those steps and the further steps that may be taken with respect to the child under this section.

(4) A police officer designated under subsection (3) (c) of this section shall, on completing an enquiry under that subsection, release the child from police protection unless he considers that there is still reasonable cause for believing that the child is

likely to suffer significant harm if released.

(5) No child may be kept in police protection for more than seventy-two hours.

(6) While a child is being kept in police protection, the designated officer may apply on behalf of the appropriate authority for an emergency protection order to be made under section 42 of this Act with respect to the child.

(7) An application may be made under subsection (6) of this section whether or not the appropriate authority knows of it or agrees to its being made.

(8) While a child is being kept in police protection, the police officer concerned or the designated officer shall not have parental responsibility for him, but designated officer shall do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the welfare of the child, having regard in particular to the length of the period during which the child will be so protected.

(9) Where a child has been taken into police protection, the designated officer shall allow—

(a) the parents of the child ;

(b) a person who, though not a parent of the child has parental responsibility for the child ;

(c) a person with whom the child was living immediately before he was taken into police protection ;

(d) a person in whose favour a contact order is in force with respect to the child ;

(e) a person who is allowed to have contact with the child by virtue of an order made under section 55 of this Act ; or

(f) a person acting on behalf of the persons specified in paragraphs (a) to (e) of this subsection, to have such contact, if any, with the child as, in the opinion of the designated officer, is reasonable and in the best interest of the child.

(10) Where a child who has been taken into police protection is in an accommodation provided by, or on behalf of, the appropriate authority, Subsection (9) of this section shall have effect as if references to designated officer were references to the appropriate authority.

45.—(1) Where a State Government—

(a) is informed that a child who lives, or is found, in the State—

(i) is the subject of an emergency protection order, or

(ii) has been taken into police protection ; or

(b) has reasonable cause to suspect that a child who lives, or is found, in the State is suffering, or is likely to suffer, significant harm, the State Government shall make, or cause to be made, such enquiries as it considers necessary to enable it to decide whether it should take any action to safeguard or promote the welfare of the child.

Duty of a
State
Government
to
investigate.

(2) Where a State Government has obtained an emergency protection order with respect to a child, it shall make, or cause to be made, such enquiries as it considers necessary to enable it to decide what action it should take to safeguard or promote the welfare of the child.

(3) ~~The enquiries made~~ under subsection (2) of this section shall, in particular, be directed ~~towards establishing—~~

(a) ~~whether the State Government should make an applicant to the Court, or exercise any of its other powers under this Act, with respect to the child ;~~

(b) whether, in the case of a child—

(i) with respect to whom an emergency protection order ~~has been made, and~~

(ii) who is not in accommodation provided by or on behalf of the appropriate authority, it would be in the best interest of the child, while an emergency protection order remains in force for the child to be in an accommodation so provided ; and

(c) whether in the case of a child who has been taken into police protection, it would be in the best interests of the child for the appropriate authority to ask for an application to be made under section 43 (6) of this Act.

(4) Where enquiries are being made under subsection (1) of this section with respect to a child, the State Government concerned shall, with a view to enabling it to determine what action, if any, to take with respect to the child, take such steps as are reasonably practicable to—

(a) obtain access to the child ; or

(b) ensure that access to the child is obtained, on its behalf, by a person authorized by it for the purpose, unless the State Government is satisfied that it already has sufficient information with respect to the child.

(5) Where, as a result of enquiries under this section, it appears to the State Government that there are matters connected with the education of the child which should be investigated, it shall consult the relevant education authority.

(6) Where, in the course of enquiries under this section, an officer of the State Government concerned or a person authorized by the State Government to act on its behalf in connection with those enquiries is—

(a) refused access to the child concerned ; or

(b) denied information as to the whereabouts of the child, the State Government shall apply for an emergency protection order, a child assessment order, a care order or a supervision order with respect to the child, unless it is satisfied that the welfare of the child can be satisfactorily safeguarded without its doing so.

(7) If, on conclusion of any enquiry or review made under this section, the State decides not to apply for an emergency protection order, a child assessment order, a care order or a supervision order, it shall—

(a) consider whether it would be appropriate to review the case at a later date ;
and

(b) if it decides that it would be appropriate to review the case, determine the date on which that review is to begin.

(8) Where, as a result of complying with this section, a State Government concludes that it should take action to safeguard or promote the welfare of the child, it shall take that action, if the action is within its power and it is reasonably practicable for it to do so.

(9) Where a State Government is making an enquiry under this section, the State Government referred to in subsection (11) of this section shall assist it with the enquiry, in particular, by providing relevant information and advice, if called on by the State Government to do so.

(10) Subsection (9) of this section does not oblige a State Government to assist any other State Government where doing so would be unreasonable in all circumstances of the case.

(11) Where a State Government is making an enquiry under this section with respect to a child who appears to it to be ordinarily resident within another State, it shall consult the Government of that other State and the Government of that other State may undertake the necessary enquiry in the place of the State Government that commenced the enquiry.

46.—(1) Where it appears to a court making an emergency protection order that adequate information as to the whereabouts of a child—

(a) is not available to the applicant for the emergency protection order ; or

(b) is available to another person who is not the applicant, the Court may include, in the order, a provision requiring that other person to disclose, if asked to do so by the applicant, any information that he may have as to the whereabouts of the child.

Disclosure
of
whereabout,
etc, of
children who
may be in
need of
emergency
protection.

(2) No person shall be excused from complying with a requirement under subsection (1) of this section on the grounds that complying might incriminate him or his spouse of an offence, but a statement or admission made in compliance with the requirement shall not be admissible in evidence against either of them in proceedings for an offence, other than perjury.

(3) An emergency protection order may authorize the applicant to enter premises specified by the order and search for the child with respect to whom the order is made, and the Court may, if satisfied that there is reasonable cause to believe that there may be another child on those premises with respect to whom an emergency protection order ought to be made, make an order authorizing the applicant to search for the other child on those premises.

(4) Where—

(a) an order has been made under subsection (3) of this section ;

(b) the child concerned has been found on the premises ; and

(c) the applicant is satisfied that the grounds for making emergency protection order exist with respect to the child, the applicant shall notify the Court, accordingly.

(5) A person who willfully obstructs a person exercising the power of entry and search under subsection (3) of this section commits an offence and is liable on summary conviction to a fine of twenty-thousand Naira or imprisonment for a term of three months or to both such fine and imprisonment.

Abduction of
children in
care, etc.

47.—(1) A person who knowingly and without lawful authority or reasonable excuse—

(a) takes or keeps a child to whom this section applies away from the person responsible for the child ; or

(b) induces, assists or incites a child to whom this section applies to run away or stay away from the person responsible for the child, commits an offence under this section and shall be liable on conviction to a fine not exceeding seventy thousand Naira or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) This section applies in relation to a child who is—

(a) in care ;

(b) the subject of an emergency protection order ; or

(c) taken into police protection.

Refuge for
children at
risk

48.—(1) Where it is proposed to use a voluntary home or registered children's home to provide refuge for children who appear to be at risk of harm, the Minister may issue a certificate under this section with respect to that home.

(2) Where an appropriate authority or a voluntary organization arranges for a foster parent to provide such a refuge, the Minister may issue a certificate under this section with respect to that foster parent.

(3) Where a certificate is in force with respect to a home, none of the provisions contained in this Act or any other law relating to—

(a) the harbouring of a child who has absconded from residential establishments ; or

(b) compelling, persuading, inciting or assisting a child to be absent from detention ; or

(c) the abduction of a child,

shall apply in relation to a person providing refuge for a child in that home.

(4) Where a certificate is in force with respect to a foster parent, the provisions referred to in subsection (3) of this section shall not apply in relation to the provision by him of a refuge for a child in accordance with arrangements made by the appropriate authority or voluntary organisation.

(5) The Minister may by regulations—

(a) make provisions as to the manner in which certificates may be issued ;

(b) impose conditions which shall be complied with while a certificate is in force ;
and

(c) provide for the withdrawal of certificates in prescribed circumstances.

49.—(1) Without prejudice to section 165 of this Act or any other power to make such rules, the Court may make rules specifying the procedure to be followed in connection with the proceedings under this Part of this Act.

Rules and
regulations
under this
part.

(2) The rules may, in particular, make provisions—

(a) as to the form in which an application is to be made or a direction is to be given ;

(b) prescribing the persons who are to be notified of—

(i) the making or extension, of an emergency protection order, or

(ii) the making of an application under section 42 (4) or (5) or 43 (6) of this Act ; and

(c) as to the content of any notification and the manner in which, and the person by whom, it is to be given.

(3) The Ministry may, by regulations, provide that, where—

(a) an emergency protection order has been made with respect to a child ;

(b) the applicant for the order was not the appropriate authority within whose area the child is ordinarily resident ; and

(c) the appropriate authority is of the opinion that it would be in the best interest of the child for the applicant's responsibilities under the order to be transferred to it, the appropriate authority shall, subject to its having complied with any conditions imposed by the regulations, be treated, for the purpose of this Act, as though it and not the original applicant had applied for, and been granted, the order.

(4) Regulations made under subsection (3) of this section may, in particular, make provisions as to—

(a) the considerations to which the appropriate authority is to have regard in forming an opinion as mentioned in subsection (3) (c) of this section ; and

(b) the time at which responsibility under any emergency protection order is to be treated as having been transferred to an appropriate authority.

PART V — CHILDREN IN NEED OF CARE AND PROTECTION

Power of
certain
persons to
bring children
in need to
care and
protection
before a court
in certain
cases.

50.—(1) A child development officer, a police officer or any other person authorised by the Minister may bring a child before the court if he has reasonable grounds for believing that the child—

- (a) is an orphan or is deserted by his relatives ;
- (b) has been neglected or ill-treated or battered by the person having the care and custody of the child ;
- (c) has a parent or guardian who does not exercise proper guidance and control over the child ;
- (d) if found destitute, has both parents or his surviving parent, undergoing imprisonment or mentally disordered or otherwise severely incapacitated ;
- (e) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child ;
- (f) is the daughter of a father who has been convicted of the offence of defilement or indecent treatment of any of his daughters ;
- (g) is found wandering or has no home or settled place of abode, is on the street or other public place, or has no visible means of subsistence ;
- (h) is found begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise or is found in any street, premises or place for the purpose of so begging or receiving alms ;
- (i) accompanies any person when that person is begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise ;
- (j) frequents the company of a reputed thief or common or reputed prostitute ;
- (k) is lodging or residing in a house or the part of a house used by a prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child ;
- (l) is a child in relation to whom an offence against morality has been committed or attempted ;
- (m) is otherwise exposed to moral or physical danger ;
- (n) is otherwise in need of care, protection or control ; or
- (o) is beyond the control of his parents or guardians.

(2) The person making an application under subsection (1) of this section shall, before the hearing of the application, take such steps as are reasonably practicable to ensure that notice of the application is given to—

- (a) the parents of the child ; or
- (b) a person who, though not a parent of the child, has parental responsibility

for the child ; or

(c) any other person who has the care of the child ; and

(d) the child concerned, if he has sufficient understanding.

(3) The Court, if satisfied that a child brought before it comes within any of the paragraphs of subsection (1) of this section may—

(a) cause the parent or guardian of the child to enter into a recognizance to exercise proper care and guardianship over the child ; or

(b) make a corrective order—

(i) committing the child to the care of any first person whether a relative or not, who is willing to undertake the care of the child ; or

(ii) sending the child to an approved institution, in exceptional circumstances where a non-institutional measure is impracticable or inappropriate ;

(c) without making any other order, or in addition to making an order under paragraph (b) of this subsection, make an order placing the child for a specified period, not exceeding three years under the supervision of a supervision officer, or of some other person appointed for the purpose by the Court.

(4) A child shall not be deemed to come within the scope of paragraph (j) of subsection (1) of this section, if the only common or reputed prostitute whose company the child frequents is the mother of the child and it is proved that she exercises proper guidance and due care to protect the child from moral danger.

(5) For the purpose of paragraph (m) of subsection (1) of this section, but without prejudice to the generality of the words thereof, the fact that a child is found—

(a) destitute or wandering, without any settled place of abode and without visible means of subsistence ;

(b) begging or receiving alms, whether or not there is any pretence of singing, playing, performing or offering anything for sale or otherwise ;

(c) loitering for the purpose of begging or receiving alms ;

(d) hawking or street trading ; or

(e) living in the streets, under bridges, in market places, in motor parks or in other public places, is evidence that the child is exposed to moral danger.

(6) A court, before which a person is convicted of having committed, in respect of a child, any offence referred to in paragraph (f) or (i) of subsection (1) of this section, may—

(a) direct that the child be brought before a court with a view to that court making such order under subsection (2) of this section as may be proper ; or

(b) if satisfied that the evidence before it is sufficient to enable it properly exercise jurisdiction, notwithstanding anything to the contrary in Part XIII of this Act, make any order which the court has power to make.

Make order
where parent
or guardian is
unable to
exercise
control.

51. Where the Court is satisfied that the parent or guardian of a child is unable to control the child, the Court may, if further satisfied—

(a) that it is expedient so to deal with the child ; and

(b) that the parent or guardian understands the results which will follow from the consents to making of the order, make a corrective order in respect of the child or order the child to be placed for a specified period, not exceeding three years, under the supervision of an appropriate supervisory child development officer or of some other person appointed for the purpose by the Court.

Power of
court to order
parent, etc.
contribute to
maintenance.

52.—(1) Where a child is committed —

(a) to the care of an individual under this Act ; or

(b) in exceptional circumstances, to an approved institution or any other institution, and the Court is satisfied that the need for the order arose from the neglect on the part of any of the persons named in subsection (2) of this section, the Court may order that person to make such contribution towards the maintenance of the child as it may think fit, having regard to all the circumstances of the case, including the means of the person ordered to make the contribution.

(2) The persons referred to in subsection (1) of this section are—

(a) the father, step-father, mother or step-mother of the child ; or

(b) a person who is cohabiting with the mother or step-mother of the child, whether or not he is the putative father of the child ; or

(c) the person in whose care and custody the child has been during the two years immediately preceding the date of the order of committal.

(3) The Court shall order the contribution of such amount per week, per month or per each such period as it deems proper having regard to the means and earning capacity of the person ordered to make the contribution and other relevant circumstances.

(4) If a person fails or neglects to comply with an order made under subsection (1) of this section, the Court may for every breach of the order direct the amount due to be levied in the manner by law provided for levying distress in the enforcement of damages or other awards ordered by a court in a civil proceeding.

(5) The Court which has the jurisdiction over the place in which the person or persons liable to make contribution may, at any time, on the application of the person or persons or on the application of an officer of the appropriate authority or other authorised officer, and on proof of a change of circumstances in the person or persons so required to make the contribution, increase or reduce the contribution or rescind any order as the Court may seem just.

PART VI — CARE AND SUPERVISION

53.—(1) The Court may, on the application of a State Government, an appropriate authority or any other authorised person, make a—

Care and
supervision
order, general.

(a) care order, placing a child with respect to whom an application is made in the care of a designated authorised person, appropriate authority or the State Government ;

(b) supervision order, placing a child under the supervision of a designated appropriate authority or supervision officer.

(2) A court may make a care order or supervision order if it is satisfied that—

(a) the care given to the child, or likely to be given to the child if the order were not made, is not what a parent would reasonably be expected to give to the child ; or

(b) the child is beyond parental control.

(3) No care order or supervision order shall be made with respect to a person who has attained the age of eighteen years.

(4) An application under this section may be made on its own or in any other family proceedings.

(5) The Court may, on an application—

(a) for a care order, make a supervision order ;

(b) for a supervision order, make a care order.

(6) An authorised person who proposes to make an application under this section, shall—

(a) if it is reasonably practicable to do so ; and

(b) before making the application, consult the State Government or the appropriate authority appearing to him to be the authority in whose jurisdiction the child concerned is ordinarily resident.

(7) An application for a care order or a supervision order made by an authorised person shall not be entertained by the Court if, at the time when it is made, the child concerned is—

(a) the subject of an earlier application for a care order or supervision order, which has not been disposed of ; or

(b) subject to a care order or supervision order.

(8) The State designated in a care order or supervision order shall—

(a) be the State in which the child is ordinarily resident ; or

(b) where the child does not reside in the State, be the State in which any circumstances arose in consequence of which the order is being made.

(9) Where the question as to whether harm suffered by a child is significant turns on the child's health or development, his health or development shall be compared with that which could reasonably be expected of a child of similar circumstances.

Period within
which
Application
for order
under this
part must be
disposed of.

54.—(1) A court before which an application for an order is brought under this Part of this Act shall, in consideration of any rules made pursuant to subsection (2) of this section—

(a) draw up a timetable with a view to disposing of the application without delay ; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.

(2) The court may by rules—

(a) specify the period within which specified steps must be taken in relation to the proceedings ; and

(b) make other provisions with respect to the proceedings for the purpose of ensuring, so far as is reasonably practicable, that the proceedings are disposed of without delay.

Effect of care
order.

55.—(1) Where a care order is made, the State Government and the appropriate authority designated by the order shall receive the child into its care and keep the child in its care while the order remains in force.

(2) Where—

(a) a care order has been made on the application of an authorised person ; and

(b) the State Government or appropriate authority designated by the order was not informed of the application, the child may be kept in the care of that person until received into the care of the State Government or the appropriate authority.

(3) While a care order is in force, the State Government or appropriate authority designated by the order shall have—

(a) parental responsibility for the child, subject to any right, duty, power, responsibility or authority which a parent or guardian of the child has in relation to the child and his property by virtue of any other enactment ; and

(b) the power, subject to the following provisions of this section, to determine the extent to which a parent or guardian of the child may meet his parental responsibility for the child.

(4) The State Government or appropriate authority shall not exercise power in subsection (3) (b) of this section unless it is satisfied that it is necessary to do so in order to safeguard or promote the welfare of the child.

(5) Nothing in subsection (3) (b) of this section shall prevent a parent or guardian of the child who has care of the child from doing what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the welfare of the child.

(6) While a care order is in force with respect to a child, the State Government or the appropriate authority designated by the order shall not—

(a) cause the child to be brought up in any religious persuasion, other than that in which he would have been brought up if the order had not been made ; or

(b) have the right to—

(i) consent or withhold consent to the making of an application with respect to the child under the adoption provisions of this Act, or

(ii) appoint a guardian for the child.

(7) While a care order is in force with respect to a child, no person shall—

(a) cause the child to be known by a new surname ; or

(b) remove the child from the State of jurisdiction, without either the written consent of every person who has parental responsibility for the child or the leave of the Court.

(8) Subsection (7) (b) of this section shall not—

(a) prevent the removal of a child from the state of jurisdiction, for a period of less than one month, by the authority in whose care he is ; or

(b) apply to arrangements for a child to live outside the State, if the required written consent or the leave of the Court has been obtained.

(9) The making of a care order with respect to a child who is subject to a contact order, a prohibited steps order, a residence order or a specific issue order, discharges the contact order, the prohibited steps order, the residence order or the specific issue order.

(10) The making of a care order with respect to a child who is—

(a) the subject of a supervision order, discharges the supervision order ;

(b) a ward of court, brings that wardship to an end ; and

(c) the subject of a school attendance order, discharges the school attendance order.

(11) Where an emergency protection order is made with respect to a child who is in care, the care order shall have effect subject to the emergency protection order.

(12) Any order made under section 69 or 84 of this Act shall continue in force until the child attains the age of eighteen years, unless it is brought to an end earlier.

(13) An—

(a) agreement under section 70 of this Act ; and

(b) appointment under section 84 (3) or (4) of this Act, shall continue in force until the child attains the age of eighteen, unless it is brought to an end earlier.

First Schedule.

(14) The provisions of First Schedule to this Act shall have effect with respect to financial relief for children.

(15) Subject to this Act, an order made under this section shall, if it would otherwise continue in force, cease to have effect when the child attains the age of eighteen years.

(16) Where an order under this section has effect with respect to a child who has attained the age of sixteen, it shall, if it would otherwise continue in force, cease to have effect when the child attains the age of eighteen years.

(17) A care order, other than an interim care order, shall continue in force until the child attains the age of eighteen years, unless it is brought to an end earlier.

(18) An order made under any other provisions of this Act in relation to a child shall, if it would otherwise continue in force, cease to have effect when he attains the age of eighteen years.

(19) Where an application (in this section referred to as “the previous application”) has been made for—

(a) the discharge of a care order ;

(b) the discharge of a supervision order ;

(c) the discharge of an education supervision order ; or

(d) the substitution of a supervision order for a care order ; or

(e) a child assessment order, no further application of a kind mentioned in paragraphs (a) to (e) of this subsection may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds six months.

(20) Subsection (19) of this section does not apply to applications made in relation to interim orders.

(21) Where—

(a) an application made for an order under section 58 of this Act has been refused ; and

(b) a period of less than six months has elapsed since the refusal, the person who made the application shall not make a further application for such an order

with respect to the same child, unless he has obtained the leave of the Court.

(22) On disposing of an application for an order under this Act, the Court may, whether or not it makes any other order in response to the application, order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the Court.

56.—(1) A State Government or an appropriate authority, shall, subject to the provisions of this section, allow a child under its care, reasonable contact with—

Parental
contacts, etc.
with children
in care.

- (a) the parents of the child ;
- (b) the guardian of the child ;
- (c) a person in whose favour a residence order was previously made immediately before a care order was made ; and
- (d) a person who, immediately before the care order was made, had care of the child by virtue of an order made by the Court.

(2) On an application made by the State Government, appropriate authority or the child, the Court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and a named person.

(3) On an application made by—

- (a) a person mentioned in paragraphs (a) to (d) of subsection (1) of this section ; or
- (b) a person who has obtained leave of the Court to make the application, the Court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and that person.

(4) On an application made by the State Government or the appropriate authority with respect to the child, the Court may make an order authorising the State Government or the appropriate authority to refuse to allow contact between the child and a person who is mentioned in paragraphs (a) to (d) of subsection (1) of this section and named in the order.

(5) When making a care order, or in any family proceeding in connection with a child who is in the care of a State Government, the Court may make an order under this section, notwithstanding that no application for the order has been made with respect to the child, if it considers that the order should be made.

(6) The State Government or appropriate authority may refuse to allow the contact that would otherwise be required by virtue of subsection (1) of this section or an order made under this section if—

- (a) it is satisfied that it is necessary to do so in order to safeguard or promote the welfare of the child ; and
- (b) the refusal—

(i) is decided on as a matter of urgency, and

(ii) does not last for more than seven days.

(7) An order made under this section may impose such conditions as the Court considers appropriate.

(8) The Court may vary or discharge an order made under this section on the application of the State Government or appropriate authority, the child concerned or the person named in the order.

(9) An order under this section may be made at the same time as the care order itself or later.

(10) The Court shall, before making a care order—

(a) consider the arrangement which the State Government or appropriate authority has made, or proposes to make, for affording a person contact with a child to whom this section applies ; and

(b) invite the parties to the proceedings to comment on the arrangement.

(11) The Minister may by regulations make provisions as to—

(a) the steps to be taken by a State Government or an appropriate authority that has exercised its powers under subsection (6) of this section ;

(b) the circumstances in which and conditions subject to which, the terms and conditions of an order made under this section may be departed from by agreement between the appropriate authority and the person in relation to whom the order is made ; and

(c) notification by a State Government or an appropriate authority of any variation or suspension of arrangements made, otherwise than under this section, with a view to affording a person contact with a child to whom this section applies.

Duty of
supervisors
while
Supervision
orders are in
force.

57.—(1) While a supervision order is in force the supervisor shall—

(a) advise, assist and befriend the supervised child ;

(b) take such steps as are reasonably necessary to give effect to the order ; and

(c) where—

(i) the order is not wholly complied with, or

(ii) the supervisor considers that the order may no longer be necessary, consider whether or not to apply to the Court for its variation or discharge.

Second
Schedule.

(2) The supplementary provisions set out in Parts I and II of the Second Schedule to this Act shall apply with respect to supervision orders.

Education
supervision
orders.

58.—(1) On the application of an appropriate education authority, the Court may make an order to be known as an education supervision order putting the child with respect to whom the application is made under the supervision of a designated appropriate education authority.

(2) The Court shall only make an education supervision order if it is satisfied that the child concerned is of compulsory school age and is not being properly educated.

(3) For the purposes of this section, a child is being properly educated only if he is receiving efficient full-time education suitable to his age, ability and aptitude and any special educational needs he may have.

(4) Where a child is—

(a) the subject of a school attendance order which is in force and which has not been complied with ; or

(b) a registered pupil at a school which he is not attending regularly, it shall be assumed that he is not being properly educated unless the contrary is proved.

(5) An education supervision order may be made with respect to a child who is in the care of a State Government if the court deems it necessary in the interest of the child.

(6) The appropriate education authority designated in an education supervision order shall be—

(a) the authority within whose area the child concerned is living or will live ; or

(b) the authority within whose area a school is situated if—

(i) the child is a registered pupil at that school, and

(ii) the authority mentioned in paragraph (a) of this subsection and the authority within whose area the school is situated agree.

(7) An appropriate education authority which proposes to make an application for an education supervision order shall, before making the application, consult the child services committee or unit of the appropriate authority.

(8) The supplementary provisions set out in Part III of the Second Schedule to this Act shall apply with respect to education supervision orders.

Second
Schedule.

59.—(1) Where, it appears to the Court in proceedings in which a question arises as to the welfare of a child, that it may be appropriate for a care or supervision order to be made with respect to that child, the Court may direct the appropriate authority to undertake an investigation of the child's circumstances.

Power of
court in
proceedings
where
question of
welfare of
child arises.

(2) Where the Court gives a direction under this section, the appropriate authority concerned shall, when undertaking the investigation, consider whether it should—

(a) apply for a care order or a supervision order with respect to the child ; or

(b) provide services or assistance for the child and his family ; or

(c) take any other action with respect to the child.

(3) Where the appropriate authority undertakes an investigation under this section and decides not to apply for a care order or supervision order with respect to the child concerned, the appropriate authority shall inform the court of—

- (a) its reasons for so deciding ;
- (b) any service or assistance which it has provided, or intends to provide, for the child and his family ; and
- (c) any other action which it has taken or proposes to take, with respect to the child.

(4) The information referred to in subsection (3) of this section shall be given to the Court before the end of the period of eight weeks, beginning with the date of the direction, unless the Court otherwise directs.

(5) If, on the conclusion of any investigation or review under this section, the appropriate authority decides not to apply for a care order or supervision order with respect to the child, the appropriate authority shall consider whether it would be appropriate to review the case at a later date.

(6) If the appropriate authority decides that it would review the case pursuant to subsection (5) of this section, it shall determine the date on which that review is to begin.

(7) In this section, “the appropriate authority”, means—

- (a) the authority in whose State the child is ordinarily resident ; or
- (b) where the child does not reside in the State, the authority within whose State any circumstances arose in consequence of which the direction is being given.

Interim
orders.

60.—(1) Where—

- (a) in any proceeding on an application for a care or supervision order, the proceeding is adjourned ; or
- (b) the Court gives a direction under section 59 (1) of this Act, the Court may make an interim care order or an interim supervision order with respect to the child concerned.

(2) The Court shall not make an interim care order or interim supervision order under this section unless it is satisfied that there are reasonable grounds for believing that the circumstances with respect to the child are as mentioned in Section 53 (2) of this Act.

(3) Where, in any proceeding on an application for a care order or supervision order, the Court makes a residence order with respect to the child concerned, it shall also make an interim supervision order with respect to the child unless it is satisfied that the welfare of the child will be satisfactorily safeguarded without an interim supervision order being made.

(4) An interim order made under or by virtue of this section shall have effect for such period as may be specified in the order, but shall cease to have effect on whichever of the following events first occurs—

(a) the expiry of the period of ten weeks beginning with the date on which the order is made ;

(b) if the order is the second or is subsequent to an order made with respect to the same child in the same proceedings, the expiry of the relevant period ;

(c) in a case which falls within subsection (1) (a) of this section, the disposal of an application ;

(d) in a case which falls within subsection (1) (b) of this section, the disposal of an application for a care order or supervision order made by the appropriate authority with respect to the child ;

(e) in a case which falls within subsection (1) (b) of this section and in which the court has given a direction under section 62 (1) of this Act, but no application for a care order or supervision order has been made with respect to the child, the expiry of the period fixed by that direction.

(5) Where the Court makes an interim care order or interim supervision order, it may give such directions, if any, as it considers appropriate with regard to the medical examination, including psychiatric examination, or other assessment of the child, but if the child has sufficient understanding to make an informed decision he may refuse to submit to the examination or other assessment.

(6) A direction under subsection (5) of this section may provide that there shall be—

(a) no examination or assessment ; or

(b) no examination or assessment unless the Court directs otherwise.

(7) A direction under subsection (5) of this section may be—

(a) given when the interim care order or interim supervision order is made or at any time while it is in force ; and

(b) varied at any time on the application of any person falling within any class of persons prescribed by Rules of Court for the purposes of this subsection.

(8) Where the Court makes an order under or by virtue of this section it shall, in determining the period for which the order is to be in force, consider whether any party who was, or might have been, opposed to the making of the order was in a position to argue his case against the order in full.

(9) The provisions set out in paragraphs 4 and 5 of the Second Schedule to this Act shall not apply in relation to an interim supervision order.

61.—(1) The Court may vary or discharge a care order on the application of—

(a) a person who has parental responsibility for the child ; or

(b) the child himself ; or

Second
Schedule.

Discharge and
variation, etc.
of care orders
and
supervision
orders..

(c) the State Government or appropriate authority designated by the order.

(2) The Court may vary or discharge a supervision order on the application of—

(a) a person who has parental responsibility for the child ;

(b) the child himself ; or

(c) the supervisor.

(3) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person with whom the child is living, the Court may vary a supervision order in so far as it imposes a requirement which affects that person.

(4) Where a care order is in force, the Court may, on the application of any person entitled to apply for the order to be discharged, substitute a supervision order for the care order.

(5) When the Court is considering whether to substitute one order for another under subsection (4) of this section, any provision of this Act which would otherwise require section 52 (2) of this Act to be satisfied, at the time when the proposed order is substituted or made, shall be disregarded.

(6) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.

62.—(1) Where the Court dismisses an application for a care order in respect of a child who is also the subject of an interim care order, the Court may make a care order with respect to the child to have effect subject to such directions, if any, as the Court may deem fit to include in the order.

(2) Where the Court dismisses an application for a care order or supervision order in respect of a child who is also the subject of an interim supervision order, the Court may make a supervision order with respect to the child to have effect subject to such directions, if any, as the Court may deem fit to include in the order.

(3) Where a Court grants an application to discharge a care order or supervision order, it may order that—

(a) its decision is not to have effect ; or

(b) the care order or supervision order is to continue to have effect, subject to such directions as the Court may deem for to include in the order.

(4) An order made under this section shall only have effect for such period, not exceeding the appeal period, as may be specified in the order.

(5) Where—

(a) an appeal is made against any decision of a Court under this section ; or

(b) an application is made to the appellate court in connection with a proposed appeal against that decision, the appellate court may extend the period for which the order in question is to have effect, but not so as to extend it beyond the end of the appeal period.

Orders
pending
appeals in
cases relating
to care or
supervision
order.

(6) For the purposes of this section, the appeal period includes—

- (a) the period between the making of the decision against which the appeal is made and the determination of the appeal ; and
- (b) the period during which an appeal may be made against the decision.

PART VII—PROVISIONS FOR USE OF SCIENTIFIC TESTS IN DETERMINING PATERNITY
OR MATERNITY, ETC.

63.—(1) In any civil proceedings in which the paternity or maternity of a person falls to be determined by the Court hearing the proceedings, the Court may, on an application by a party to the proceedings, give a direction for—

Power of
court to
require use of
scientific
tests.

(a) the use of scientific tests, including blood tests and Deoxyribonucleic Acid tests, to ascertain whether the tests show that a party to the proceedings is or is not the father or mother of that person ; and

(b) for the taking, within a period to be specified in the direction, of blood or other samples from that person, the mother of that person, the father of that person and any party alleged to be the father or mother of that person or from any two of those persons.

(2) The Court may at any time revoke or vary a direction previously given by it under subsection (1) of this section.

(3) Where—

- (a) an application is made for a direction under this section ; and
- (b) the person whose paternity or maternity is in issue is under the age of eighteen when the application is made, the application shall specify who is to carry out the tests.

(4) In the case of a direction made on an application to which subsection (3) of this section applies, the Court—

(a) shall specify that the person who is to carry out the test is the person specified in the application ; or

(b) may, where the Court considers that it would be inappropriate to specify the person referred to in paragraph (a) of this subsection, because specifying that person would be contrary to any provision of regulations made under section 65 of this Act or for any other reason, decline to give the direction applied for.

(5) The person responsible for carrying out blood tests taken for the purpose of giving effect to a direction under this section shall make, to the Court which gave the direction, a report in which he shall state—

- (a) the result of the tests ;
- (b) whether the party to whom the report relates is or is not indicated by the results as the father or mother of the person whose paternity or maternity, as the case may be, is to be determined ; and

(c) if the party is so indicated, the value, if any, of the results in determining whether that party is actually the father or mother of that person.

(6) The report made under subsection (5) of this section shall be—

(a) received by the Court as evidence in the proceedings of the matters stated in the report ; and

(b) in the form prescribed by regulations made under section 65 of this Act.

(7) Where a report has been made to the Court under subsection (5) of this section, any party to the proceedings may, with the leave of the Court, or shall, if the Court so directs, obtain from the person who made the report a written statement explaining or amplifying any statement made in the report, and that statement shall be deemed for the purposes of this section, except subsection (5) (b) of this section, to form part of the report made to the Court.

(8) Where a direction is given under this section in any proceedings, a party to the proceedings, shall not, unless the Court otherwise directs, be entitled to call as a witness—

(a) the person who carried out the tests taken for the purpose of giving effect to the direction ; or

(b) any person who did any thing necessary for the purpose of enabling those tests to be carried out, unless within fourteen days after receiving a copy of the report that party serves notice on the other parties to the proceedings or on such of those other parties as the Court may direct, of his intention to call that person, and where a person is called as a witness the party who called the person shall be entitled to cross-examine that person.

(9) Where a direction is given under this section, the party on whose application the direction is given shall pay the cost of taking and testing blood or other samples for the purpose of giving effect to the direction, including any expenses reasonably incurred by any person—

(a) in taking any step required of the person for the purpose ; and

(b) in making a report to the Court under this section, but the amount paid shall be treated as costs incurred by the party in the proceedings.

Consents, etc.
required for
taking
scientific
samples.

64.—(1) Subject to the provisions of subsections (3) and (4) of this section, scientific sample which is required to be taken from any person for the purpose of giving effect to a direction under section 63 of this Act shall not be taken from that person except with his consent.

(2) The consent of a child who has attained the age of sixteen years to the taking from himself of a scientific sample shall be as effective as it would be if he had attained the age of majority and where a child has by a virtue of this subsection given an effective consent to the taking of scientific sample, it shall not be necessary to obtain any consent for it from any other person.

(3) A scientific sample may be taken from a child under the age of sixteen years, not being a child as is referred to in subsection (4) of this section, if the person who has the care and control of the child consents.

(4) A scientific sample may be taken from a child who—

(a) is suffering from mental disorder within the meaning of any relevant law in Nigeria ; and

(b) is incapable of understanding the nature and purpose of the scientific tests, if the person who has the care and control of the child consents and the medical practitioner in whose care he is has certified that the taking of the scientific sample from the child shall not be prejudicial to his proper care and treatment.

(5) The provisions of this section are without prejudice to the provisions of section 66 of this Act.

65. The Minister may by regulations make provisions as to the manner of giving effect to directions given under section 63 of this Act and, in particular, the regulations may—

(a) provide that scientific samples shall not be taken except by such medical practitioners as may be appointed by the Minister ;

(b) regulate the taking, identification and transporting of the scientific samples ;

(c) require the production, at the time when a scientific sample is to be taken of such evidence as to the identity of the person from whom it is to be taken as may be prescribed by the regulations ;

(d) require any person from whom a scientific sample is to be taken, or, in such cases as may be prescribed by the regulations, such other person as may be so prescribed, to state in writing whether he or the person from whom the sample is to be taken, as the case may be, has during such period as may be specified in the regulations, suffered from any such illness as may be so specified or received a transfusion of blood ;

(e) provide that scientific tests shall not be carried out except by such persons, and at such places, as may be appointed by the Minister ;

(f) prescribe the scientific tests to be carried out and the manner in which they are to be carried out ;

(g) regulate the charges that may be made for the taking and testing of the scientific samples and for the making of a report to a Court under section 63 of this Act ;

(h) make provision for securing that, so far as practicable the samples to be tested for the purpose of giving effect to a direction under Section 63 of this Act are tested by the same person ;

(i) prescribe the form of the report to be made to a Court under section 63 of this Act.

Power of Minister to provide for manner of giving effect to directions for use of scientific tests.

Failure to
comply with
directions for
taking of
scientific
tests

66.—(1) Where the Court gives a direction under section 63 of this Act and a person fails to take any step required of him for the purpose of giving effect to the direction, the Court may draw such inferences, if any, from that facts as appear proper in the circumstances.

(2) Where, in any proceedings in which the paternity or maternity of a child falls to be determined by the Court hearing the proceedings, there is a presumption of law that the person is legitimate then if

(a) a direction is given under section 63 of this Act in those proceedings ; and

(b) a party who is claiming any relief in the proceedings and who for the purpose of obtaining that relief is entitled to rely on the presumption fails to take any step required of him for the purpose of giving effect to the direction, the Court may adjourn the hearing for such period as it thinks fit to enable that party to take the step required.

(3) If at the end of the period referred to in subsection (2) of this section, the person fails without reasonable cause to take the step required, the Court may, without prejudice to subsection (1) of this section, dismiss his claim for relief notwithstanding the absence of evidence to rebut the presumption.

(4) Where a person named in a direction under section 63 of this Act fails to consent to the taking of scientific sample from himself or from a child named in the direction of whom he has the care and control, the person shall be deemed for the purposes of this section to have failed to take a step required of him for the purpose of giving effect to the direction.

Penalty for
impersonating
another, etc.
for purpose
of providing
scientific
sample.

67. If, for the purpose of providing scientific sample for a test required to give effect to a direction under section 63 of this Act, a person impersonates another, or proffers a child knowing that it is not the child named in the direction, that person commits an offence and is liable on conviction to a fine not exceeding ten thousand Naira or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

PART VIII—POSSESSION AND CUSTODY OF CHILDREN

Acquisition of
parental
responsibilities.

68.—(1) Where the father and mother of a child were not married to each other at the time of the birth of the child—

(a) the Family Court established under section 153 of this Act may—

(i) on the application of the father, order that he shall have parental responsibility for the child, or

(ii) on the application of the mother, order that she shall have parental responsibility for the child, or

(b) the father and mother may by agreement have joint parental responsibility for the child.

(2) No parental responsibility agreement shall have effect for the purposes of this Act, unless it is made in the form and manner prescribed by regulations made by the Chief Justice of Nigeria under this section.

(3) Subject to subsection (4) of this section, an order under subsection (1) (a) of this section, or a parental responsibility agreement, may only be brought to an end by an order of the Court made on the application—

- (a) of a person who has parental responsibility for the child ; or
- (b) of the child himself, with leave of the Court.

(4) The Court may only grant leave under subsection (3) (b) of this section if it is satisfied that the child has sufficient understanding to make the proposed application.

(5) Where the court makes a residence order in favour of the father or the mother of a child it shall, if the father or mother would not otherwise have parental responsibility for the child, also make an order under subsection (1) of this section giving the father or mother that responsibility.

(6) Where the Court makes a residence order in favour of a person who is not the parent or guardian of the child concerned, that person shall have parental responsibility for the child while the residence order remains in force.

(7) Where a person has parental responsibility for a child as a result of subsection (5) of this section, he shall not have the right to—

- (a) refuse to consent, to the making of an application in respect of the child under Part XII of this Act ; or
- (b) agree, or refuse to agree, to the making of an adoption order, or any other order under Part XII of this Act with respect to the child ; or
- (c) appoint a guardian for the child.

(8) Where subsection (5) of this section requires the Court to make an order under subsection (1) of this section in respect of the father or mother of a child, the Court shall not bring that order to an end at any time while the residence order concerned remains in force.

(9) The fact that a person has, or does not have, parental responsibility for a child shall not affect—

- (a) any obligation which he may have in relation to the child, including a statutory duty to maintain the child ; or
- (b) any right which, in the event of the death of the child, he or any other person may have in relation to the property of the child.

(10) A person who does not have parental responsibility for a particular child but has care of the child may, subject to the provisions of this Act, do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the welfare of the child.

Power of the Court to make order in respect to custody or right of access to a child.

69.—(1) The Court may—

(a) on the application of the father or mother of a child, make such order as it may deem fit with respect to the custody of the child and the right of access to the child of either parent, having regard to—

(i) the welfare of the child and the conduct of the parent ; and

(ii) the wishes of the mother and father of the child ;

(b) alter, vary or discharge an order made under paragraph (a) of this subsection on the application of—

(i) the father or mother of the child, or

(ii) the guardian of the child, after the death of the father or mother of the child ; and

(c) in every case, make such order with respect to costs as it may think just.

(2) The power of the Court under subsection (1) of this section to make an order as to the custody of a child and the right of access to the child may be exercised notwithstanding that the mother of the child is at that time not residing with the father of the child.

(3) Where the Court makes an order under subsection (1) of this section, giving the custody of the child to the mother, the Court may further order that the father shall pay to the mother towards the maintenance of the child such weekly or other periodical sum as the Court may, having regard to the means of the father, think reasonable.

(4) Where the Court makes an order under subsection (1) of this section giving custody of the child to the father, the Court may further order that the mother shall pay to the father towards the maintenance of the child such weekly or other periodical sum as the court may, having regard to the means of the mother, think reasonable.

(5) Subject to this section, no order whether for custody or maintenance shall be enforceable and no liability thereunder shall accrue while the mother of the child resides with the father, and any such order shall cease to have effect if for a period of three months after it is made, the mother of the child continues to reside with the father.

(6) An order made under this section may, on the application of the father or mother of the child, be varied or discharged by a subsequent order.

Orders as to custody.

70. No agreement contained in any separation deed made between the father and the mother of a child shall be invalid by reason only of its providing that the father of the child gives up the custody or control of the child to the mother.

Validity of custody agreed to in separation deeds.

71. Where in any proceedings before a court the custody or upbringing of a child or the administration of any property belonging to or held in trust for a child, or the application of the income thereof, is in question, the Court shall, in deciding that question, regard the welfare of the child as the first and paramount consideration.

72. Where the parent of a child has—
- (a) abandoned or deserted the child ; or
- (b) allowed the child to be brought up by another person at the expense of that other person, for such a length of time and under such circumstances as to satisfy the Court that the parent was unmindful of his parental responsibilities, the Court shall not make an order for the child to be delivered to the parent, unless the parent satisfies the Court that, having regard to the welfare of the child, the parent is a fit and proper person to have the custody of the child.
73. Where the parent of a child applies to the Court for a writ or an order for the production of a child, and the Court is of the opinion that the parent—
- (a) has abandoned or deserted the child ; or
- (b) had otherwise so conducted himself that the Court should refuse to enforce his right to the custody of the child, the Court may, in its discretion, decline to issue the writ or make the order.
74. If at the time of the application for a writ or an order for the production of a child, the child is being brought up by another person, the Court may, in its discretion, if it orders that the child be given up to the parent, further order that the parent pays to that other person the whole of the costs properly incurred in bringing up the child, or such portion of the costs as seems to the Court to be just and reasonable, having regard to the circumstances of the case.
75. Nothing contained in sections 72,73 and 74 of this Act interferes with or affects the power of the Court to consult the wishes of the child in considering what order ought to be made under section 74 of this Act or diminishes the right which any child has to exercise on his own free choice.
76. The Court may, on an application by a parent for the production or custody of a child, if it is of the opinion—
- (a) that the parent ought not to have the custody of the child ; and
- (b) that the child is being brought up in a different religion other than that in which the parent has brought the child up, make such order as it may deem fit to ensure that the child is brought up in the religion in which the parent requires the child to be brought up.
77. Where the Court makes an order for the payment of money in pursuance of this Act, the Court shall, in addition to any other powers for enforcing compliance with the order, have power, in any case where pension or income, which is capable of being attached, is payable to the person against whom the order is made, after giving the person by whom the pension or income is payable an opportunity of being heard, order that such part of the pension or income as the Court may deem fit be attached for the payment of any money under this Act.

Principal on which questions relating to custody, upbringing, etc. of child is to be decided.

Court to have regard to conduct of parent.

Power of Court as to production of child.

Power of court to consult child's wishes.

Power of court to child's religions education.

Enforcement of order for payment of money by attachment of income.

Notice of
change of
address by
person
ordered to
pay money.

78. A person who for the time being is under an obligation to make payment in pursuance of an order for the payment of money under this Act shall give notice of any change in his address to the person, if any, as may be specified in the order.

Power of the
Minister to
make orders,
etc. as to
custody of
Children.

79.—(1) The Minister may, by order, notwithstanding any customary law to the contrary, prohibit—

(a) the giving or acquiring of the custody, possession, control or guardianship of a child; or

(b) the removal of a child from any part of a state.

(2) Where an order is made by the Minister in pursuance of subsection (1) of this section, no person shall give or acquire the custody, possession or control of or remove a child from any part of the State specified in the order except in accordance with rules made by the Minister and such rules may be in general or in respect of any particular part of a state.

(3) An appeal from the order of the Minister shall lie to the appropriate level of the Court.

Prohibition
Against
Acquiring
Custody, etc.
of Child for
the purpose
of dealing in
the Child.

80.—(1) No person shall hire, give or acquire the custody, possession, control or guardianship of a child whether or not for pecuniary or other benefit in circumstances that it may reasonably be inferred that the child has been hired, sold or bartered, or that by reason of the hiring, giving or acquiring, the child may reasonably be inferred to be placed in any danger, whatsoever.

(2) In any prosecution for the contravention of subsection (1) of this section, where it is proved that the custody, possession, control or guardianship of a child has been given to or acquired by a person other than a person who is a member of the family of the child, it shall be presumed by the Court that the child has been given or acquired in contravention of the provisions of subsection (1) of this section.

(3) It shall be a defence to this section to prove that the child concerned was given or acquired in accordance with customary law, provided that the customary law is not repugnant to natural justice, morality or humanity or inconsistent with any written law.

Penalties for
Contravening
Sections 79
and 80.

81. A person who contravenes the provisions of sections 79 and 80 of this Act or of any rules made under those sections commits an offence and is liable on conviction to a fine of ten thousand Naira or imprisonment for a term of one year or to both such fine and imprisonment.

PART IX—GUARDIANSHIP

Parental
responsibility
of a guardian.

82.—(1) Except as provided under section 69 of this Act, a person appointed as a guardian under this Part of this Act shall have parental responsibility for the child.

(2) A person appointed as guardian *ad litem* under section 90 of this Act shall be a guardian only for the purposes of representing the child and his interest in certain proceedings, but shall otherwise have no parental responsibility for the child.

83.—(1) The parents of a child shall have guardianship of the child and, in the event of the death of a parent, the surviving parent shall be the guardian of the child.

Guardianship
of a Child.

(2) Where the parents of a child are not fit to be guardians of a child jointly or severally, the Court shall, on application of a member of the family or an appropriate authority, appoint a person to be a joint guardian with the parent or parents of the child.

(3) A surviving parent who has guardianship of a child may, by deed, appoint a guardian for the child in the event of the death of that parent.

(4) A single parent may, by deed, appoint a person to be the guardian of the child upon the death of that single parent.

(5) Where a guardian is appointed to act jointly with a parent or parents of a child under subsection (2) of this section and the guardian so appointed considers the parents unfit to have the custody of the child, the guardian may apply to the Court, and the Court may make—

(a) an order that the guardian be the sole guardian of the child ; and

(b) such order regarding the custody and right of access of the parents to the child as the Court may think fit, having regard to the welfare of the child.

(6) The Court may under subsection (2) of this section, order that a parent or parents of a child make a payment to a joint guardian towards the maintenance of the child.

84.—(1) Where an application for the guardianship of a child is made to the Court by a person, the Court may, by order, appoint that person to be the guardian of the child if—

Order for
guardianship
of a child.

(a) the child has no parent with parental responsibility for him ; or

(b) a residence order has been made in respect to the child in favour of a parent or guardian of the child who has died while the order was in force.

(2) The power conferred under subsection (1) of this section may also be exercised in any family proceedings if the Court considers that the order should be made notwithstanding that no application was made for it.

(3) A guardian of a child may, by deed, appoint another person to be the guardian of the child in the event of his death.

(4) An appointment made by a will which is not signed by the testator, shall have effect only if it is signed at the direction of the testator.

Consent of a person appointed as a guardian.

85. The consent of a person appointed as a guardian is necessary for the appointment to have effect.

Revocation of guardianship.

86. The appointment of a guardian under sections 85 and 90 of this Act may be brought to an end at any time by an order of the Court—

- (a) on the application of a natural parent or any person who has parental responsibility for the child ; or
- (b) on the application of the child concerned, with leave of the Court ;
- (c) in any family proceedings, if the Court considers that it should be brought to an end notwithstanding that no application has been made ; or
- (d) on the application of an appropriate authority.

Power of a guardian over estate of a child.

87. A guardian under this Act shall have all such powers over the estate, as the case may be, of a child as a guardian appointed by will or otherwise by virtue of the rules of common law, equity, or appropriate personal law.

Disputes between joint guardians.

88. Where two or more persons act as joint guardians of a child and they are unable to agree on any question affecting the welfare of the child, any of them may apply to the Court for its direction, and the Court may make an order regarding the question in dispute.

Appointment of guardian *ad litem*.

89.—(1) The Court may, for the purpose of any specified proceedings, appoint a guardian *ad litem* for the child concerned to safeguard the interests of the child, unless it is satisfied that it is not necessary to do so.

(2) The guardian *ad litem* shall—

- (a) be appointed in accordance with the Rules of Court ; and
- (b) be under a duty to safeguard the interests of the child in the manner prescribed by those rules.

(3) Where—

- (a) the child concerned is not represented by a legal practitioner ; and
- (b) any of the conditions mentioned in subsection (4) of this section is satisfied, the Court may appoint a legal practitioner to represent the child.

(4) The conditions under which an appointment may be made under subsection (3) of this section are that—

- (a) no guardian *ad litem* has been appointed for the child ;
- (b) the child has sufficient understanding to instruct a legal practitioner and wishes to do so ;
- (c) it appears to the Court that it would be in the best interest of the child for him to be represented by a legal practitioner.

(5) A legal practitioner appointed under or by virtue of this section shall represent the child, in accordance with the Rules of Court.

(6) Notwithstanding any enactment or rules of law to the contrary, the court may take account of —

(a) any statement contained in a report made by a guardian *ad litem* who is appointed under this section for the purpose of the proceedings in question ; and

(b) any evidence given in respect of the matters referred to in the report, in so far as the statement or evidence is, in the opinion of the Court, relevant to the question which the Court is considering.

90.—(1) The Minister may by regulations provide for the establishment of panels of persons from which guardians *ad litem* appointed under this section shall be selected.

Establishment of panels of persons from which guardians *ad litem* may be appointed.

(2) The regulations may, in particular, make provisions—

(a) as to the constitution, administration and procedures of the panels ;

(b) requiring two or more specified Local Governments to make arrangements for the joint management of a panel ;

(c) for the defrayment by the State Government of expenses incurred by members of panels ;

(d) for the payment by the State Government of fees and allowances to members of panels ;

(e) as to the qualifications for membership of a panel ;

(f) as to the training to be given to members of the panels ;

(g) as to the co-operation required of specified local governments in the provision of panels in specified areas ; and

(h) for monitoring the work of guardians *ad litem*.

(3) Rules of Court may make provisions as to the—

(a) assistance which a guardian *ad litem* may be required by the Court to give to it ;

(b) consideration to be given by a guardian *ad litem*, where an order of a specified kind has been made in the proceedings in question, as to whether to apply for the variation or discharge of the order ;

(c) participation of guardians *ad litem* in any review, of the kind specified in the Rules of Court, conducted by the Court.

91.—(1) Where a person has been appointed as a guardian *ad litem* under this Act, he shall have the right at all reasonable times to examine and take a copy of—

Right of guardian *ad litem* to have access to records.

(a) any record held by the State Government or the appropriate authority which was compiled in connection with the making, or proposed making, by any person of any application under this Act with respect to the child concerned ; or

(b) any other record held by the State Government or the appropriate authority which was compiled in connection with any function which have been referred to their social service committee, so far as those records relate to that child.

(2) Where a guardian *ad litem* takes a copy of a record which he is entitled to examine under this section, that copy or any part of it shall, notwithstanding anything to the contrary in any enactment or rules, be admissible as evidence of any matter referred to in any—

(a) report which he makes to the Court in the proceedings in question ; or

(b) evidence which he gives in those proceedings.

Saving of
existing
orders and
jurisdiction
of the Court.

92.—(1) Notwithstanding the provisions of this Act, an order lawfully made by any court relating to the guardianship or custody of a child before the commencement of this Act and which is in force at the time of the commencement of this Act and is not inconsistent with this Act shall continue in force until other provisions are made under and by virtue of this Act.

(2) Nothing in this Act shall restrict or affect the jurisdiction of a court to appoint or remove guardians by virtue of the High Court Laws or any other written law, until the Court has been established in the relevant jurisdictions.

PART X—WARDSHIP

Jurisdiction
of court.

93. The Court shall have jurisdiction in all matters pertaining to making a child a ward of Court.

Wardship
order.

94.—(1) Subject to the provisions of this section, no child shall be made a ward of court except by virtue of an order, to that effect, made by the Court.

(2) Where application is made for an order in respect of a child, the child becomes a ward of court on the making of the order or on the expiration of such period as may be prescribed, unless within that period another order is made in accordance with the new application.

(3) The Court may, either upon an application in that behalf or without an application, order that a child who is for the time being a ward of court ceases to be a ward of court.

Maintenance
of a ward of
court.

95.—(1) Subject to the provisions of this section, the Court may make an order—

(a) requiring either parent of a ward of court to pay to the other parent ; or

(b) requiring either parent or both parents of a ward of court to pay to any other person having the care and control of the ward, such weekly or other periodical sums towards the maintenance and education of the ward as the Court thinks reasonable, having regard to the means of the person or persons making the payment.

(2) An order under subsection (1) of this section may require such sums as are

mentioned in that subsection to continue to be paid in respect of any period but not beyond the date on which the ward of court attains the age of majority and such order if made may provide that any sum which is payable for the benefit of that ward, having regard to the age of the child, be paid directly to that ward.

(3) No order shall be made under subsection (1) (a) of this section, and no liability under an order made under this section, shall accrue, at a time when the parents of the ward of court or former ward of court, as the case may be, are residing together and if they so reside for a period of three months after an order has been made, the order shall cease to have effect.

(4) The court shall have power, from time to time, by an order under this section, to vary or discharge any previous order made under this section.

96.—(1) Where it appears to the court that there are exceptional circumstances making it impracticable or undesirable for a ward of court to be, or to continue to be, under the care of either of his parents or any other person, the court may, if it thinks fit, make an order committing the care of the ward to an appropriate authority.

Committal
of ward to
care of
appropriate
authority,
etc.

(2) Where it appears to the court that there are exceptional circumstances making it desirable that a ward of court, not being a ward who in pursuance of an order under subsection (1) of this section, is in the care of an appropriate authority, should be under the supervision of an independent person, the court may, with regard to such period as the court thinks fit, order that the ward be under the supervision of a child development officer or other appropriate authority.

(3) The court shall have power, from time to time by an order under this section, to vary or discharge any previous order made under this section.

97. A court hearing a matrimonial case in which a child may be involved may direct that proper proceedings be taken in the court at the High Court level for making the child a ward of court.

Matrimonial
causes.

98. Where the court is of the opinion that an application for wardship is an abuse of the court process, it shall dismiss the application forthwith.

Dismissal of
application
for
wardship.

99. An application for wardship shall be made in compliance with the rules contained in Third Schedule to this Act.S

Rules for
application
for
wardship.
Third
Schedule.

PART XI—FOSTERING

100.—(1) A person may foster a child by making an application to the court within the jurisdiction in which the person and the child reside at the date of the application.

Application
for
fostering.

(2) An application for fostering shall be made in accordance with the procedure and in the manner prescribed by the rules made under the provisions of this Act.

A Child to be fostered.

101. A child who may be fostered under this Act includes a child who—

(a) is abandoned by his parents ; or

(b) is an orphan and is—

(i) deserted by his relatives, or

(ii) voluntarily presented by his relatives for fostering, or

(iii) voluntarily presents himself for fostering, where no relatives of his can be found ; or

(c) has been abused, neglected or ill-treated by the person having care and custody of him ; or

(d) has a parent or guardian who does not or cannot exercise proper guidance over him ; or

(e) is found destitute ; or

(f) is found wandering, has no home or settled place of abode, is on the streets or other public place, or has no visible means of subsistence ; or

(g) is voluntarily presented by his parents for fostering.

Making a fostering order.

102.—(1) Subject to the provisions of this Act, the court may, on receipt of the application for fostering, make an order authorising the application to foster the child.

(2) Except where a man and his wife have applied jointly to foster a child, a fostering order shall not authorise more than one person to foster a child.

Limit on number of children who may be fostered.

103. The number of children who may be fostered by a person shall not exceed three, unless exceptional circumstances are shown.

Restriction on the making of Fostering Order.

104.—(1) A fostering order shall not be made by the court unless—

(a) the applicant or, in the case of a joint application, each of the applicants is not less than twenty-five years old and is at least twenty-one years older than the child to be fostered ;

(b) the applicant and the child are resident in the same State ;

(c) the applicant is a citizen of Nigeria ;

(d) the applicant has the means to maintain the child ;

(e) the applicant is a person of unquestionable integrity ; and

(f) the applicant is certified by a medical officer to be physically and mentally fit.

(2) A fostering order shall not be made in favour of a sole applicant who is unmarried, unless the applicant has attained the age of thirty-five years and the child to be fostered is of the same sex as the applicant.

105.—(1) Where a married person is the sole applicant for a fostering order, the application shall be accompanied with the consent, in writing, of the other spouse that the order be made.

Consent to fostering.

(2) Where it appears to the court that a person, other than the father or mother or relative of a child, has any right or obligation in respect of the child under an order of court or an agreement or under customary law, the court may refuse to make the fostering order until the consent of that person is first obtained.

(3) The court may dispense with any consent required under this section if it is satisfied that the person whose consent would have been required—

(a) has abandoned, neglected or persistently ill-treated the child ; or

(b) cannot be found or is incapable of giving his consent or is unreasonably withholding his consent.

106.—(1) Before making a fostering order, the court shall be satisfied that—

Further conditions for making of fostering orders.

(a) every consent under section 107 of this Act, which has not been dispensed with, had been obtained and every person who has given his consent understands the nature and effect of the fostering order for which the application is made ;

(b) the order, if made, will be for the maintenance, care, education and general welfare and best interest of the child ; and

(c) the applicant has not received or agreed to receive and no person has made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the fostering.

(2) The court may, in a fostering order, impose such terms and conditions as it may think fit and, in particular, may require the foster parent by bond or otherwise to make for the child such provisions as in the opinion of the court is just and expedient.

107.—(1) Subject to this section, the court may, on application for a fostering order by a person, postpone the determination of the application and make an interim order giving the custody of the child to the applicant for a period not exceeding two years, as a probationary period, on such terms and conditions as the court thinks fit as regards provision for the maintenance, education and supervision of the child and otherwise.

Interim Orders.

(2) The court shall impose the following conditions under subsection (1) of this section, that is—

(a) that the child shall be under the supervision of an officer appointed by the court ; and

(b) that the child shall not be taken out of the State without the prior consent of the court.

(3) All consents as are required for the making of a fostering 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.

(4) An interim order shall not be made in any case where the making of a fostering order would be unlawful by virtue of section 127 of this Act.

(5) An interim order shall not have the same effect as a fostering order under this Act.

(6) An interim order may be revoked by the court if the foster parent fails to comply with any condition imposed on him by the interim order pursuant to this section.

Rules of
Court.

108.—(1) The Chief Justice of Nigeria may make rules of court providing generally for the practice and procedure of the Court in respect of the fostering of children under this Act.

(2) The power to make rules conferred under subsection (1) of this section shall, without prejudice to the generality of that subsection, include power to make provisions for—

(a) proceedings to be held in camera in determining the application in the Court ;

(b) excluding or restricting the jurisdiction of any court where a previous application made by the applicant in respect of the same child has been refused by that or any other court ;

(c) the admission of documentary evidence of any consent required under section 107 of this Act ; and

(d) a report for the assistance of the court in determining whether or not the fostering order will be in the overall interest and welfare of the child having regard to the ability of the applicant to maintain, care for and educate the child.

Appeal.

109. An appeal shall lie to the court at High court level from the court at the Magisterial level in respect of a decision on an application for a fostering order, other than a decision to postpone the determination of an application for the order or to make an interim order.

Rights and
duties of
foster
parents and
other
Persons.

110.—(1) On the making of a fostering order—

(a) all rights, duties, obligations and liabilities, including—

(i) any arising under customary law applicable to the parents of the child, or any other person or persons in relation to the custody, maintenance and education of the child, and

(ii) all rights to appoint a guardian and to consent or give notice of consent or marriage, shall be suspended ; and

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

(2) A child shall, in respect of his custody, maintenance and education, stand to the foster parent exactly in the position of a child born to the foster parent in lawful marriage.

(3) Where a husband and wife are joint foster parents, they shall, in respect of the custody, maintenance and education of the child, and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of a right of access to the child, stand to each other and to the child in the same relationship as they would have stood if the child were a child born to them in lawful marriage.

111. Where at the time a fostering order is made in respect of a child, an order requiring a person to contribute towards the maintenance of that child under this Act is in force, the fostering order shall prevail.

Effects of
fostering on
maintenance
order.

112.—(1) The Chief Registrar and the appropriate child development service shall each keep and maintain a register to be known as the Fostered Children Register in which shall be made such entries as may be directed by a fostering order to be made therein.

Fostered
children
register.

(2) A fostering order shall contain a direction to the Chief Registrar and the appropriate child development service to make in the Fostered Children Register the entry in the form specified in Part II of Fourth Schedule to this Act.

Fourth
Schedule.

(3) If, on an application to the Court for a fostering order, it is proved to the satisfaction of the Court that the date of birth of the child and other particulars of the child are identical with a child to whom an entry in the Register of Births kept by the National Population Commission relates, the fostering order shall contain a further direction to the Chief Registrar and the appropriate child development service to cause the entry in the Register of Births to be marked "Fostered".

(4) Where a fostering order is made in respect of a child who has been the subject of a previous fostering order made under this Act, the fostering order shall contain a direction to the Chief Registrar and the appropriate child development service to cause the previous entry in the Fostered Children Register and the Register of Births in respect of that child to be marked "Re-fostered".

(5) The Court shall cause a copy of every foster order to be communicated to the Chief Registrar and the appropriate child development service and on receipt of the order, the Chief Registrar and the appropriate child development service shall comply with the directions contained therein.

(6) A certified copy of an entry in the Fostered Children Register if purporting to be stamped or sealed with the seal of office of the Chief Registrar shall be *prima*

facie proof of the facts contained therein, including the date of birth of a child to whom it relates without any further evidence as if the same were a certified copy of an entry in the Register of Births.

(7) The Chief Registrar shall cause an index of the Fostered Children register to be made and kept in the registry.

(8) A copy of extract of an entry in any register, being an entry which is cancelled under this section, shall be a *prima facie* evidence of that cancellation.

(9) A register, record or book as is mentioned in subsection (8) of this section or an index thereof shall not be liable to be searched by any member of the public, and the Chief Registrar shall not make a certified copy thereof or furnish any information therein contained, to a person except under an order made by the court.

(10) On the revocation of a fostering order, the Court shall cause the fact of the revocation to be communicated to the Chief Registrar and the appropriate child development service who shall cancel or cause to be cancelled—

(a) the entry in the Fostered Children Register relating to the fostered child ;
and

(b) the word "Fostered" or "Re-fostered" in the entry relating to the fostered child in the Register of Births.

(11) The Chief Registrar may keep such record books and make such other entries therein as may be consistent with the particulars contained in the Fostered Children Register

Visit to
fostered child
by child
development
officers.

113.—(1) The appropriate child development service shall keep itself informed, from time to time, of the condition and welfare of each child fostered under this Act and for that purpose, arrange for child development officers to do all or any of the following things, that is—

(a) to pay periodic visits at reasonable times to each child fostered under this Act until the child attains the age of eighteen years ; and

(b) to enter any premises for the purpose of ascertaining whether there is any contravention by a person of any condition of the fostering or of any other provision of this Act.

(2) During a visit under this section, the officer conducting the visit may require the production of the fostered child or that information be given regarding the condition of the child.

Revocation
of a foster
order on
grounds of
the interest
of the child.

114. Where it is proved to the satisfaction of a court that a foster parent has abandoned, neglected or persistently ill-treated or assaulted a fostered child, the Court shall—

(a) revoke the fostering order in respect of the child ; and

(b) proceed to take other necessary action pursuant to the provisions of this Act.

115.—(1) A person who—

(a) receives or agrees to receive money or a reward as an inducement to foster a child ; or

(b) receives or agrees to receive money or any reward in order to facilitate arrangements to foster a child ; or

(c) gives or agrees to give money or reward to secure consent of a person to foster a child, commits an offence under this Act.

Prohibition of receiving money or reward as inducement to foster a child.

(2) A person who commits an offence under subsection (1) of this section is liable on conviction to a fine not exceeding thirty thousand Naira or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

116.—(1) Where a foster parent intends to take a fostered child outside the State or Nigeria, he shall give notice to the Court of his intention to do so and shall, on return to the State or Nigeria, notify the Court of their return.

Prohibition of taking, sending fostered child out of state or Nigeria.

(2) A person who permits or causes or procures the possession of a child to be given to any person—

(a) outside the State in which the fostering order was made ; or

(b) outside Nigeria, with intent to getting that child fostered by that person commits an offence.

(3) A person who commits an offence under subsection (2) of this section is liable on conviction in the case of an offence under—

(a) subsection (2) (a) of this section, to imprisonment for a term of ten years ; and

(b) subsection (2) (b) of this section, to imprisonment for a term of fifteen years.

117. While an application for a fostering order is pending in a Court, no person who has given his consent to a fostering order being made in respect of a child shall withdraw the child or cause the child to be withdrawn from the care and possession of the applicant without the leave of the Court and the Court shall, in granting the leave, have regard to the welfare of the child.

Prohibition of withdrawal of a child from the care of the applicant.

118.—(1) No foster parent shall marry any child fostered by him pursuant to this Act.

(2) A foster parent who marries a child fostered by him commits an offence under this Act and is liable on conviction to imprisonment for a term not exceeding fourteen years.

Foster parent prohibited from marrying fostered child.

Non-compliance with lawful directives.

119. A person who—

(a) without reasonable excuse, fails to comply with a lawful directive given by a child development officer ; or

(b) obstructs a social welfare officer in the exercise of the powers conferred by this Act, commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred Naira or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Private arrangement for fostering children.

120.—(1) For the purposes of this Part of this Act and subject to subsection (2) of this section—

(a) a child shall be deemed to be fostered privately if he is cared for, and provided with accommodation by a person other than—

(i) a parent of the child ; or

(ii) any other person who has parental responsibility for the child, or

(iii) a relative of the child ; and

(b) a person shall be deemed to foster a child privately if he cares for the child in circumstances in which the child is fostered privately as defined under paragraph (a) of this subsection.

(2) A child is not fostered privately if the person caring for and accommodating the child has done so for a period of less than twenty-eight days and does not intend to do so for any longer period.

Fourth Schedule.

(3) The provisions in Part III of Fourth Schedule to this Act shall have effect for the purposes of supplementing the provisions of this section.

Welfare of a child fostered privately.

121.—(1) Every State Government shall—

(a) satisfy itself that the welfare and best interest of a child who is fostered privately within the State are satisfactorily safeguarded and promoted ; and

(b) ensure that persons caring for that child are given such advice as appears to the State Government to be needed.

(2) Where a person who is authorised by a State Government to visit a child who is fostered privately has reasonable cause to believe that a child who is or is proposed to be fostered privately is being accommodated in premises within the State, may, at any reasonable time, inspect those premises and any child accommodated therein.

(3) A person exercising the power under subsection (2) of this section shall, if so required, produce some duly authenticated document showing his authority to do so.

(4) Where an officer of the State Government is not satisfied that the welfare of a child who is fostered privately within the State is satisfactorily safeguarded or promoted, he shall—

(a) unless he considers that it would not be in the best interest of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—

- (i) a parent of the child, or
- (ii) any other person who has parental responsibility for the child, or
- (iii) a relative of the child, and

(b) consider the extent to which, if at all, they shall exercise any of their powers under this Act with respect to the child.

(5) The Minister may make regulations —

(a) requiring every child who is fostered privately within a State to be visited by an officer of the State Government—

- (i) in prescribed circumstances, and
- (ii) on specified occasions or within specified periods ; and

(b) imposing requirements which are to be met by any State officer in carrying out his functions under this section.

122.—(1) A person shall not foster a child privately if he is disqualified from doing so by regulations made by the Minister for the purposes of this section, unless he has disclosed the fact to the appropriate authority and obtained its written consent.

A person
disqualified
from
fostering a
child
privately.

(2) The regulations shall, in particular, provide for a person to be so disqualified where—

- (a) an order of a kind specified in the regulations has been made at any time—
 - (i) with respect to that person ; or
 - (ii) with respect to a child who has been in the care of that person ;
- (b) a requirement of a kind so specified has been imposed by an enactment ;
- (c) he has been convicted of an offence of a kind so specified, or has been placed on probation or discharged absolutely or conditionally for any offence ;
- (d) a prohibition has been imposed on him at any time under section 123 of this Act or under any other specified enactment ;
- (e) his rights and powers with respect to a child have at any time been vested in a specified authority under a specified enactment.

(3) A person shall not foster a child privately if—

(a) he lives in the same household as a person who is himself prevented from fostering a child by subsection (1) of this section ; or

(b) he lives in a household at which any such person is employed, unless he has disclosed the fact to the appropriate authority and obtained their written consent.

(4) Where an appropriate authority refuses to give its consent under this section, it shall inform the applicant by a written notice—

- (a) the reason for the refusal ;
- (b) the applicant's rights to appeal against the refusal ; and
- (c) the time within which he may appeal.

Fourth
Schedule.

(5) The form set out in Part IV of the Fourth Schedule to this Act and the provisions contained in Part V and VI of that Schedule shall be used and have effect for the purposes of this section and this Part of this Act.

Power of
state
Government
to prohibit
private
fostering.

123.—(1) This section applies where a person—

- (a) proposes to foster a child privately ; or
- (b) is fostering a child privately.

(2) Where the State Government in whose State the child is proposed to be, or is being fostered, is of the opinion that—

- (a) a person is not a suitable person to foster a child ; or
- (b) the premises in which the child will be, or is being accommodated, are not suitable ; or
- (c) it would be prejudicial to the welfare of the child for him to be, or continue to be, accommodated by that person in those premises, the State Government may impose on him a prohibition specified under subsection (3) of this section.

(3) A prohibition imposed on a person under subsection (2) of this section may prohibit him from fostering privately—

- (a) any child in any premises within the State ; or
- (b) any child in premises specified in the prohibition ; or
- (c) a child identified in the prohibition, in premises specified in the prohibition.

(4) A State Government which has imposed a prohibition on any person under subsection (2) of this section, may, if it thinks fit, cancel the prohibition—

- (a) of its own motion ; or
- (b) on an application made by that person, if it is satisfied that the prohibition is no longer justified.

(5) A prohibition imposed under this section shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—

- (a) the reason for imposing the prohibition ;
- (b) his right to appeal against the prohibition ; and
- (c) the time within which he may appeal.

124.—(1) A person who—

Offences
under this
Part.

(a) being required, under any provision made by or under this Part of this Act, to give any notice or information—

(i) fails, without reasonable excuse, to give the notice within the time specified in that provision ; or

(ii) fails, without reasonable excuse, to give the information within a reasonable time ; or

(iii) makes or causes or procures another person to make any statement in the notice or information which he knows or believes to be false or misleading in a material particular ; or

(b) refuses to allow a child fostered privately to be visited by a duly authorised officer of the State Government ; or

(c) intentionally obstructs another person in the exercise of the power conferred by section 121 (2) of this Act ; or

(d) contravenes section 124 of this Act ; or

(e) fails, without reasonable excuse, to comply with any requirement imposed by a State Government under this Part of this Act ; or

(f) accommodates a child fostered privately in any premises in contravention of a prohibition known to him to have been imposed by a State Government under this Part of this Act ; or

(g) knowingly publishes or causes to be published, an advertisement which he knows contravenes paragraph 8 of Part III of Schedule 4 to this Act, commits an offence under this Act.

(2) Where a person contravenes Section 124 (3) of this Act, he does not commit an offence under this section if he proves that he did not know, and had no reasonable ground for believing, that a person to whom section 124 (1) applies was living or employed in the premises in question.

(3) A person who commits an offence—

(a) under subsection (1) (a) of this section, is liable on summary conviction to a fine not exceeding five thousand Naira ;

(b) under subsection (1) (b), (c), (d), (e), (f), or (g) of this section, is liable on summary conviction to a fine not exceeding five thousand Naira or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(4) If a person who is required under any provision of this Part of this Act to give notice fails to give the notice within the time specified in that provision, proceedings for an offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the State Government.

PART XII—ADOPTION

Establishment
of adoption
services, etc.

125.—(1) Every State Government shall, for the purpose of adoption, establish and maintain within the State and, in the case of the Federal Government, within the Federal Capital Territory, Abuja, a service designed to meet the needs of—

- (a) a child who has been or may be adopted ;
- (b) parents and guardians of the child specified in paragraph (a) of this subsection ; and
- (c) persons who have adopted or who may adopt a child, and for this purpose, every Government shall provide the requisite facilities or ensure that the facilities are provided by approved adoption services as may be prescribed by the appropriate authority.

(2) The facilities to be provided as part of the services maintained under subsection (1) of this section include—

- (a) temporary board and lodging, where needed by a child and, in exceptional circumstances, the mother of a child ;
- (b) arrangements for assessing a child and prospective adopters and placing of the child for adoption ; and
- (c) counselling for persons with problems relating to adoption.

Application
for adoption,
etc.

126.—(1) An application for adoption shall be made to the court in such form as may be prescribed, and shall be accompanied with—

- (a) where the applicant is a married couple, their marriage certificate or a sworn declaration of marriage ;
- (b) the birth certificate or sworn declaration of age of each applicant ;
- (c) two passport photographs of each applicant ;
- (d) a medical certificate of the fitness of the applicant from a Government hospital ; and
- (e) such other documents, requirements and information as the court may require for the purposes of the adoption.

(2) On receipt of an application under subsection (1) of this section, the court shall order an investigation to be conducted by—

- (a) a child development officer ;
- (b) a supervision officer ; and
- (c) such other persons as the court may determine, to enable the court to assess the suitability of the applicant as an adopter and of the child to be adopted.

(3) The court shall, in reaching a decision relating to the adoption of a child, have regard to all the circumstances, first consideration being given to—

(a) the need to safeguard and promote the welfare and the best interest of the child throughout the childhood of that child ; and

(b) ascertaining, as far as practicable, the wishes and feelings of the child regarding the decision and giving due consideration to those wishes and feelings, having regard to the age and understanding of the child.

127. The court shall, in placing a child for adoption, have regard, as far as is practicable, to the wishes, if any, of the parents or guardian of the child as to the religious upbringing of the child.

Religious upbringing of adopted child.

128. The court shall not make an adoption order in respect of a child unless—

Persons who may be Adopted.

(a) the parents of the child or, where there is no surviving parent, the guardian of the child consents to the adoption ; or

(b) the child is abandoned, neglected or persistently abused or ill treated, and there are compelling reasons in the interest of the child why he should be adopted.

129. The following persons may apply for an adoption order—

Persons who may adopt.

(a) a married couple where—

(i) each of them has attained the age of twenty-five years, and

(ii) there is an order authorising them jointly to adopt a child ; or

(b) a married person, if he has obtained consent of his spouse, as required under section 132 of this Act ; or

(c) a single person, if he has attained the age of thirty-five years, provided that the child to be adopted is of the same sex as the person adopting ; or

(d) in all cases specified in paragraphs (a), (b) and (c) of this section, the adopter or adopters shall be persons found to be suitable to adopt the child in question by the appropriate investigating officers.

130.—(1) Subject to the provisions of this Act, the court may, on the application of a person stated in section 126 of this Act in the prescribed manner make an order under this Act referred to as an “adoption order”.

Power to make adoption order.

(2) An adoption order shall be made in the form specified in the Fifth Schedule to this Act.

Fifth Schedule.

131.—(1) An adoption order shall not be made in respect of a child unless—

Restriction on the making of adoption orders.

(a) the applicant or, in the case of a joint application, one of them, is not less than twenty-five years old and is, at least, twenty-one years older than the child ;

(b) the applicant, or in the case of a joint application, both or, at least, one of them and the child are resident in the same State ;

(c) the applicant has been resident or, in the case of a joint application, both of

them have been resident in the State in which the application is made for a period of, at least, five years ;

(d) the applicant is a citizen or, in the case of a joint application, both applicants are citizens of Nigeria ;

(e) the child has been in the care of the applicant for a period of at least three consecutive months immediately preceding the date on which the order is made ; and

(f) the applicant has, at least twelve months before the making of the order, informed the social welfare officer of his intention to adopt the child.

(2) On the application of a married couple, if they consist of a parent and a step parent of the child, the court shall dismiss the application if it considers that the matter would be better dealt with under Part VIII of this Act.

Required
Consent.

132.—(1) Where a married person is the sole applicant for an adoption order, the court may, if it thinks fit, refuse to make the order if the consent of the spouse of the applicant to the making of the order is not first obtained.

(2) Where it appears to the court that a person other than the parent or relative of a child has any right or obligation in respect of the child under an order of the Court or any agreement or under customary law, the court may, if it thinks fit, refuse to make the adoption order if the consent of that person is not first obtained.

(3) The child development officer, on an application for an adoption order in respect of a child, shall prepare a report to assist the Court in determining whether a person who is not a parent or relative of the child has any right or obligation in respect of that child and whether the consent of the person ought first to be obtained.

(4) A consent under this section may be given either—

(a) unconditionally ; or

(b) subject to conditions with respect to the religious persuasion in which the child is to be brought up.

(5) In giving a consent under this section, it may not be necessary for the person giving the consent to know the identity of the applicant for the adoption order.

(6) The court may dispense with any consent required under this section if it is satisfied that the person whose consent is required cannot be found or is incapable of giving his consent or is withholding his consent unreasonably.

(7) While an application for an adoption order is pending in any court, no person who has given his consent to an adoption order to be made in respect of a child shall withdraw the child from the care and possession of the applicant without the leave of the court and the court shall have regard to the welfare of the child in considering whether or not to grant the leave.

133. The court shall, before making an adoption order, satisfy itself that—

(a) every consent required under section 132 of this Act which has not been dispensed with has been obtained ;

(b) every person who has given his consent understands the nature and effect of the adoption order for which the application is made and for this purpose the relevant adoption service shall provide adequate counselling for the parties involved in the adoption ;

(c) the order, if made, shall be for the welfare and best interest of the child, due consideration for this purpose being given to the wishes of the child having regard to his age and understanding ; and

(d) the applicant has not received or agreed to receive, and no person has made, given or agreed to make or give to the applicant any payment or other reward in consideration of the adoption other than what the court may approve.

Conditions
preceding the
making of
an adoption
order.

134. The court may, in making an adoption order, 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 child such provisions, if any, as in the opinion of the court, are just and expedient.

Power of
court to
impose terms
and
conditions.

135.—(1) Subject to the provisions of this section, the court may, on an application for an adoption order, postpone the determination of the application and make an interim order giving the custody of the child to the applicant for a period not exceeding two years on such terms and conditions as the court thinks fit as regards provision for the maintenance, education and supervision of the welfare of the child and otherwise.

Interim
orders,
pending
adoption
orders.

(2) The court shall, in making an interim order under subsection (1) of this section, specify that the child shall—

(a) be under the supervision of such child development officer as the Minister may appoint ; and

(b) not be taken out of the state concerned without the consent of the court

(3) The consents to the making of an adoption order which are required under section 132 of this Act shall be required to the making of an interim order, and the power of the court to dispense with any such consent shall also apply in the case of an interim order.

(4) An interim order shall not be made in any case where the making of an adoption order would be unlawful under the provisions of this Act.

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

Jurisdiction
of the
Court.

136. Subject to rules of the court made under section 137 of this Act, the court shall have exclusive jurisdiction to deal with an application for an adoption order.

Rules of the
court for
adoption of a
child.

137.—(1) The Chief Justice of Nigeria may make rules of court for regulating generally the practice and procedure of the court in respect of the adoption of a child.

(2) The power to make rules conferred by subsection (1) of this section, shall, without prejudice to the generality of that subsection, include power to make provisions for—

(a) application for the adoption orders being heard and determined otherwise than in open court ;

(b) the admission of documentary evidence of any consent required under section 132 of this Act ; and

(c) requiring the child 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 in determining whether the order will be for the welfare and best interest of the child.

Appeals.

138.—(1) An appeal shall lie to the court at the High Court level from the court at the Magisterial level in respect of a decision on any application for an adoption order, other than a decision to postpone the determination of the application for such an order and make an interim order.

(2) Where the Court at the High court level exercises original or appellate jurisdiction, appeal shall lie to the Court of Appeal.

(3) Proceedings in respect of an appeal under this section shall be conducted in chambers.

Adoption
when
corrective
order is in
force.

139.—(1) A child may be adopted notwithstanding that a corrective order is in force in respect of the child.

(2) On the application for an adoption order being made in a case under subsection (1) of this section and on being satisfied that the adoption would be for the welfare and best interest of the child concerned, the court shall suspend the corrective order so as to enable the applicant to have the child in his case for a period of at least three consecutive months immediately preceding the date of the adoption order.

Adoption
where
maintenance
order is in
force.

140.—(1) A child may be adopted notwithstanding that a maintenance order is in force in respect of the child.

(2) Where, at the time when an adoption order is made in respect of a child, a maintenance order requiring a person to contribute towards the maintenance of that child under this Act or any other law is in force, the maintenance order shall cease to have effect at that time.

141.—(1) On an adoption order being made—

Effect of
adoption.

(a) all rights, duties, obligations and liabilities, including any other order under the personal law applicable to the parents of the child or any other person in relation to the future custody, maintenance, supervision and education of the child, including all religious rights, right 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—

(i) all rights, duties, obligations and liabilities in respect of the future custody, maintenance, supervision and education of the child, and

(ii) all rights to appoint a guardian and to consent or give notice of dissent to marriage of the child, as would vest in the adopter as if the child were a natural child of the adopter, and in respect of those matters, the child shall stand to the adopter in the relationship of a child born to the adopter.

(2) Where a husband and wife are joint adopters of a child, they shall—

(a) in respect of the matters specified under this section ; and

(b) for the purpose of the jurisdiction of the court to make orders as to the custody and maintenance of and rights of access to the children, stand to each other and to the child in the same relationship as they would have stood if the child were their natural child, and in respect of those matters, the child shall stand to them in the relationship of a child born to the adopters.

(3) For the purposes of the devolution of the property on the intestacy of the adopter, an adopted child shall be treated as a child born to the adopter.

(4) In a disposition of property made after the date of an adoption order, reference, whether express or implied, to—

(a) the child or children of the adopter shall, unless the contrary intention appears, be considered as including, a reference to the adopted child ; and

(b) a person related to the adopted child in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him in that degree if he were the natural child of the adopter and were not the child of any other person.

142.—(1) The Chief Registrar shall establish and maintain a register to be called and known as the “Adopted Children Register” in which shall be made such entries as may be directed by an adoption order to be made therein, but no other entries.

Establishment
of the
adopted
children
register.

(2) An adoption order shall contain a direction to the Chief Registrar and the National Population Commission (in this Part of this Act referred to as “the Commission”) to make in the Adopted Children Register entry in the form specified in the Fifth Schedule to this Act.

Fifth
Schedule.

(3) If on any application to the court for an adoption, there is prove to the satisfaction of the court that—

(a) the date of the birth of the child ; and

(b) the identity of the child is identical to, a child, to whom any entry in the Register of Births kept by the Commission relates, the adoption order shall contain a further direction to the Chief Registrar to cause that birth entry in the Register of Births to be marked "Adopted" and to include in the entry relating to the adoption of the child in the Adopted Children Register the day of the child's birth.

(4) Where an adoption order is made in respect of a child who had been the subject of a previous adoption order made by the court under this Act, the order shall contain a direction to the Chief Registrar and the Commission to cause the previous entry in the Adopted Children Register in respect of that child to be marked "Re-adopted".

(5) The court shall cause a copy of every adoption order to be communicated to the Chief Registrar and the Commission and on receipt of the order, the Chief Registrar and the Commission shall comply with the directions contained therein.

(6) A certified copy of an entry in the Adopted Children Register if purporting to be stamped or sealed by the Chief Registrar's office shall be proof of the adoption as is therein specified, and where the copy of the entry includes the date of the birth of the child to whom it relates, it shall be proof also of the date without any further evidence as though the same were also a certified copy of an entry in the Register of Births.

(7) The Chief Registrar shall cause an index of the Adopted Children Register to be made and kept in the Registry.

(8) The Chief Registrar shall, in addition to the Adopted Children Register and the index thereof keep such other registers and books and make such entries therein as may be necessary to record, in connection with an entry in the Register of Births which has been marked "Adopted".

(9) Any such Register or books as are mentioned in subsection (8) of this section or any index thereof, if any, shall not be liable to searches by members of the public and the Chief Registrar shall make a certified copy thereof or furnish any information therein contained to any person except under an order made by the court.

(10) On the revocation of an adoption order, the court shall cause the fact of the revocation to be communicated to the Chief Registrar who shall cause to be cancelled—

(a) the entry in the Adopted Children Register relating to the adopted child ; and

(b) the marking with the word "Adopted" or "Re-adopted" of any entry relating to the child in the Register of Births.

(11) A copy of an extract of an entry in any register being an entry the marking of which is cancelled under this section shall be deemed to be an accurate copy if both the marking and the cancellation are omitted therefrom.

143.—(1) No adopter or any other person shall—

Prohibition
of certain
payments for
adoption.

(a) except with the sanction of the court, receive or agree to receive any payment or reward, in consideration for or for the facilitation of the adoption of a child under this Act ;

(b) make or give or agree to make or give to an adopter any payment or reward the receipt of which is prohibited by this subsection.

(2) A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding thirty thousand Naira or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) Notwithstanding the provisions of subsection (2) of this section, an adoption order affected by the payment prohibited under subsection (1) of this section may be allowed to continue or be resolved at the discretion of the court having regard to all the circumstances of the case particularly the best interest of the child.

144.—(1) Except under a licence issued pursuant to section 145 of this Act, no person shall permit or cause or procure the care and possession of a child to be given to any person outside the State in which the adoption order was made with a view to getting the child adopted by any person.

Restrictions
on Inter-
State
adoption.

(2) A person who permits or causes or procures the possession of a child to be given to any person—

(a) outside the State in which the fostering order was made, or

(b) outside Nigeria, with intent to getting that child fostered by that person commits an offence.

(3) A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of thirty thousand Naira or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(4) A person who commits an offence under subsection (2) of this section is liable on conviction to a term of—

(a) in the case of an offence under subsection (2) (a) of this section, to imprisonment for a term of ten years ;

(b) in the case of an offence under subsection (2) (b) of this section, to imprisonment for a term of fifteen years.

145.—(1) Subject to this section, the Minister may grant a licence for a child to be transferred to a person, subject to such conditions and restrictions as he may think fit, authorising the care and protection of a child for whom inter-state adoption arrangements have been made.

Licence to
give child for
inter-state
adoption.

(2) A licence shall not be granted under subsection (1) of this section unless the Minister is satisfied, as respects every person whose consent is required under section 132 of this Act to the making of an adoption order for the child, that—

- (a) the application for the licence is made with the consent of that person ; or
- (b) the consent of that person can properly be dispensed with on any ground on which the court could dispense with a consent to an adoption order under that section.

(3) A licence shall not be granted under this section unless the Minister is satisfied—

(a) that the person to whom the care and possession of the child is proposed to be transferred is a suitable person, under the provision of this Act, to be entrusted with the child ; and

(b) that the transfer is for the welfare and best interest of the child.

(4) The Minister shall, in granting a licence under this section, give consideration to the wishes of the child having regard to the age and understanding of the child.

Recognition
of other
adoption.

146. Where a person has been adopted under any law in force in any part of Nigeria, or under the law of any other country other than Nigeria, the adoption shall have the likely validity and effect as if the adoption has been effected by an adoption order under this Act.

Adopted
parents, etc.
prohibited
from
marrying
adopted
child.

147.—(1) A marriage between a person who has adopted a child under this Act or a natural child of the person who adopted the child and the adopted child is hereby prohibited and any such marriage shall be null and void.

(2) A person who marries an adopted child in violation of subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term not exceeding fourteen years.

Visit of
adopted child
development
officers.

148.—(1) The Director of Child Development in the State Ministry shall keep himself informed, from time to time, of the condition and welfare of a child adopted by any person in the State and arrange for officers of his Department to do all or any of the following—

(a) to pay periodic visits, at reasonable times, to every child adopted under this Act ;

(b) to enter any premises for the purpose of ascertaining whether there is any contravention by any person of any condition of adoption imposed in an adoption order or any provision of this Act in relation to an adopted child.

(2) During any visit under subsection (1) of this section, the officer paying the visit may require production of the adopted child or that information be given regarding the condition of the child.

(3) A person who—

(a) without reasonable excuse, fails to comply with a requirement imposed by a child development officer ; or

(b) obstructs a child development officer in the exercise of the powers conferred

by this section, commits an offence and is liable on conviction to a fine not exceeding five hundred Naira or imprisonment not exceeding three months or to both such fine and imprisonment.

PART XIII—THE FAMILY COURT

149. There shall be established for each State of the Federation and the Federal Capital Territory, Abuja, a court to be known as the Family Court (in this Act referred to as “the Court”) for the purposes of hearing and determining matters relating to children.

Establishment
of the family
court.

150. The court shall be at two levels—

- (a) the court as a Division of the High Court at the High Court level : and
- (b) the court as a Magistrate Court, at the Magistrate level.

Court to
have two
levels.

151.—(1) Subject to the provisions of this Act and in addition to such other jurisdiction as may be conferred on it by any other law, the Court shall have unlimited jurisdiction to hear and determine—

General
jurisdiction.

(a) any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim in respect of a child is in issue ; and

(b) any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by a child, against a child or against the interest of a child.

(2) The reference to civil or criminal proceedings in this section includes a reference to a proceeding which originates in the court and that which is brought by the Court at the High Court level to be dealt with by the court in the exercise of its appellate or supervisory jurisdiction.

(3) The court shall, in any matter relating to or affecting a child or a family and at all stages of any proceedings before it—

(a) be guided by the principle of conciliation of the parties involved or likely to be affected by the result of the proceedings, including—

(i) the child,

(ii) the parents or guardian of the child, and

(iii) any other person having parental or other responsibility for the child ; and

(b) encourage and facilitate the settlement of the matter before it in an amicable manner.

152.—(1) The court at the High Court level shall consist of such number of—

Family Court
at the High
Court level.

(a) Judges of the High Court of the State and the Federal Capital Territory, Abuja ; and

(b) assessors, who shall be officers not below the rank of Chief Child Development Officers, as shall enable the court to effectively perform its functions

under this Act.

(2) The members of the court at the High Court level shall be appointed by Chief Judge of the State and in the case of the Federal Capital Territory, Abuja, the Chief Judge of the High Court of the Federal Capital Territory, Abuja.

(3) The court at the High Court level shall be duly constituted if it consists of—

(a) a Judge ; and

(b) two assessors, one of whom has attributes of dealing with children and matters relating to children preferably in the area of child psychology education.

(4) The court at the High Court level shall have power to—

(a) deal with all matters relating to the enforcement of the rights of the child as set out in this Act on the application for redress by a child who alleges that a right has been, is being, or is likely to be infringed in respect of him ;

(b) deal with all offences punishable with—

(i) death, or

(ii) terms of imprisonment for a term of ten years and above ;

(c) deal with other matters relating to a child where the claim involves an amount of fifty thousand Naira and above ;

(d) deal with divorce and custody of the child ; and

(e) hear appeals from the Court at the Magisterial level.

(5) Appeals shall lie to the court of Appeal on any matter decided by the court at the High Court level in the same manner as appeals lie in respect of matters decided by the High Court.

Family Court
at the
Magistrate
level.

153.—(1) The court at the Magisterial level shall consist of such number of—

(a) Magistrates, not below the rank of Chief Magistrate ; and

(b) assessors, who shall be officers not below the rank of Senior Child Development Officer, as shall enable the court to effectively perform its functions under this Act.

(2) The members of the court at the Magisterial level shall be appointed by the Chief Judge of the State and in the case of the Federal Capital Territory, Abuja, the Chief Judge of the High Court.

(3) The court at the Magisterial level shall be duly constituted if it consists of—

(a) a Magistrate ;

(b) two assessors, one of whom shall be a woman and the other person who has attributes of dealing with children and matters relating to children, preferably in the area of child psychology education.

(4) The court at the Magisterial level has power to try offences and deal with all matters not specifically assigned to the court at the High Court level under section 152 of this Act.

(5) Appeals lie to the court at the High Court level from a decision of the court at the Magisterial level in the same manner as appeals lie from the decisions of Magistrates' Courts to the High Court of the State.

154.—(1) The personnel of the court shall be afforded professional education, in-service training, refresher courses and other modes of instruction to promote and enhance the necessary professional competence they require.

Professionalisation and training of court personnel.

(2) The contents of the education, training and courses referred to in subsection (1) of this section shall be such as shall reflect the diversity of the children who come into contact with and the diversity and complexity of matters dealt with by the court.

(3) In constituting a court handling a matter concerning a child, consideration shall be given to the circumstances and the needs of the child, particularly the age, sex, religion or other special characteristics of the child.

155. A child has the right to be represented by a legal practitioner and to free legal aid in the hearing and determination of any matter concerning the child in the court.

Right to counsel, etc.

156. No person, other than—

- (a) the members and officers of the Court ;
- (b) the parties to the case, their solicitors and counsel ;
- (c) parents or guardian of the child ; and
- (d) other persons directly concerned in the case,

Exclusion of persons from attending court.

shall be allowed to attend the court, and, accordingly, members of the press are excluded from attending a court.

157.—(1) No person shall publish the name, address, school, photograph, or anything likely to lead to the identification of a child whose matter is before the court, except in so far as is required by the provisions of this Act.

Prohibition of publication of child's name, etc.

(2) A person who acts in contravention of the provisions of this section commits an offence and is liable on conviction to a fine of fifty thousand naira or imprisonment for a term of five years or to both such fine and imprisonment.

158. The proceedings in the court shall be conducive to the best interest of the child and shall be conducted in an atmosphere of understanding, allowing the child to express himself and participate in the proceedings.

Proceedings to be in the interest of the child.

159.—(1) In any proceedings in which the court is hearing an application for an order under this Act, or is considering whether to make an order, the court may order the parents, guardian or the child concerned to attend such stage or stages of the

Attendance of parents, guardians or child at the hearing in the Court.

proceeding as may be specified in the order.

(2) The power conferred by subsection (1) of this section shall be exercised in accordance with the rules of the court.

(3) Where an order made under subsection (1) of this section has not been complied with or the Court has reasonable cause to believe that it will not be complied with, the court may—

(a) make an order authorising a police officer or such person as may be specified in the order to—

(i) take charge of the child and to bring him to the court, and

(ii) enter and search any premises specified in the order if he has reasonable cause to believe that the child may be found on the premises ; or

(b) order any person who is in a position to do so to bring the child to the court.

(4) Where the court has reason to believe that a person has information about the whereabouts of a child, it may, by order, require the person to disclose such information to the court.

(5) A person who refuses to comply with an order made under this section commits an offence and is liable on conviction to a fine not exceeding fifteen thousand naira or to imprisonment for a term not exceeding eighteen months or to both such fine and imprisonment.

Evidence
giving by a
child.

160.—(1) In any proceedings, whether civil or criminal, the evidence of a child may be given unsworn.

(2) A deposition of a child's sworn evidence shall be taken for the purposes of any proceedings, whether civil or criminal, as if that evidence had been given on oath.

Rules for
procedures,
fees, etc.

161.—(1) The Chief Justice of Nigeria may make rules regulating the procedure in the court, the parties entitled to participate in any proceedings, the fees to be charged and the forms to be used in proceedings.

(2) The provisions of any written law relating to the practice and procedure in Magistrate Courts or High Courts, as the case may be, not inconsistent with the provisions of this Act shall have effect with respect to proceedings in the court.

Exclusive
jurisdiction.

162.—(1) No other court, except the Court, shall exercise jurisdiction in any matter relating to children as are specified in this Act.

(2) The provisions of subsection (1) of this section shall not affect the jurisdiction of the normal criminal courts to try cases or offences by adult offenders as specified in Part III of this Act or any other law.

Registration,
etc. of child
minding and
day care
centre.

PART XIV—CHILD MINDING AND DAY CARE OF YOUNG CHILDREN

163.—(1) Every State Government shall keep a register into which shall be entered the names and other particulars of persons who—

(a) act as child minders on domestic premises within the area of the appropriate authority ; and

(b) provide day care for children under the age of six years on premises other than domestic premises within the areas of the State Government.

(2) A person—

(a) acts as child minder if—

(i) the person looks after one or more children under the age of six years, for reward, and

(ii) the period, or the total of the periods, which the person spends in looking after the children in day exceeds two hours ; and

(b) provides day care for children if the period, or the total of the periods during which children are looked after by the person in any day exceeds two hours.

(3) Where a person provides day care for children under the age of six years on different premises situated within the same State, the person shall make a separate application with respect to each of those premises.

(4) A person who—

(a) is the parent, or a relative, of a child ;

(b) though, not the parent of a child, has parental responsibility for the child ; or

(c) is a foster parent of a child, is not a child minder for the purposes of this Part when looking after the child.

(5) Where a person is employed as a nanny for a child, she does not act as a child minder when looking after that child wholly or mainly in the home of the person so employing her.

(6) Where a person is employed by two different employers, she does not act as a child minder looking after any of the children concerned wholly or mainly in the home of either of her employers.

(7) A person who wishes to be entered in the register kept under subsection (1) of this section shall apply in writing to the State Government to be so registered.

(8) A State Government may refuse to register an applicant under subsection (1) (a) of this section, if it is satisfied that—

(a) the applicant ; or

(b) a person looking after, or likely to be looking after, children on the premises on which the applicant is, or is likely to be, child minding, is not fit to look after children under the age of six years.

(9) A State Government may also refuse to register an applicant under subsection (1) (a) of this section, if it is satisfied that—

(a) living, or likely to be living ; or

(b) employed, or likely to be employed, at any premises on which the applicant is, or likely to be, child minding is not fit to be in the proximity of children under the age of six years.

(10) A State Government may refuse to register an applicant under subsection (1) (b) of this section if it is satisfied that a person looking after, or likely to look after, children on the premises to which the application relates is not fit to look after children under the age of six years.

(11) A State Government may also refuse to register an applicant under subsection (1) (b) of this section, if it is satisfied that a person—

(a) living, or likely to be living ; or

(b) employed, or likely to be employed, at the premises to which the application relates, is not fit to be in the proximity of children under the age of six years.

(12) A State Government may refuse to register an applicant under this section if it is satisfied—

(a) in the case of application under subsection (1) (a) of this section, that the premises on which the applicant is, or is likely to be, child minding ; or

(b) in the case of an application under subsection (1) (b) of this section, that the premises to which the application relates, is not fit to be used for looking after children under the age of six years, whether because of the condition of the premises or the condition of any equipment used on the premises or for any reason connected with the situation, construction, style or location of the premises.

(13) For the purposes of this section, a person acts as a nanny for a child if she is employed to look after the child by—

(a) a parent of the child ; or

(b) a person who, though is not a parent of the child has parental responsibility for the child.

(14) A register kept under this section—

(a) shall be open to inspection by members of the public at all reasonable times ; and

(b) may be kept by means of a computer.

(15) The provisions of Part VI of Fourth Schedules and 6 to this Act shall have effect for the purpose of making further provisions with respect to registration under this section, including, in particular, further provisions for exemption from the requirement to be registered and provisions for disqualification.

Fourth
Schedule

Conditions to
be complied
with by child
minders.

164.—(1) Where a State Government registers a person under section 163 (1) (a) of this Act, it shall, in addition to the requirements set out in subsection (2) of this section, impose such reasonable conditions on the person as it considers appropriate in each case.

(2) A State Government shall on registering a child minder—

(a) specify that the maximum number of children, or the maximum number of children within specified age groups, whom the child minder may look after when acting as child minder shall be five ;

(b) require the child minder to secure that any premises on which he so looks after the children, and the equipment used on those premises, are adequately maintained and kept safe ;

(c) require the child minder to keep a record of the name and address of every—

(i) child being looked after by him on any premises within the area of the State Government,

(ii) person who assists in looking after the child, and

(iii) person living, or who is likely at any time to live on those premises ;

(d) require the child minder to notify the State Government in writing of any change in the names and addresses of persons mentioned in paragraph (c) (ii) and (iii) of this subsection.

(3) A State Government may, at any time vary, any condition imposed by it under this section.

(4) The Minister may, by regulations, make provisions as to—

(a) conditions which shall be imposed by State Governments under this section in prescribed circumstances ;

(b) conditions of such descriptions as may be prescribed which shall not be imposed by State Governments under this section ;

(c) the annual fees payable in respect of registration and inspection of premises.

165.—(1) Where a State Government registers a person under section 163 (1) of this Act, it shall, in addition to the requirements set out in subsection (3) of this section, impose such reasonable conditions on the person as it considers appropriate in each case.

(2) Where a person is registered under section 163 (1) (b) of this Act with respect to different premises within the area of the same State Government, this section shall apply separately in relation to each registration.

(3) A State Government shall on registering a person providing day care for children—

(a) specify the maximum number of children, or the maximum number of children within specified age groups, who may be looked after on the premises ;

(b) require the person to secure that the premises on which he so looks after the children and the equipment used on those premises, are adequately maintained and kept safe ;

Conditions to be complied with by persons providing day care for children

(c) require the person to notify the State Government in writing of any change in the facilities which he provides or in the period during which he provides those facilities.

(d) specify the number of persons required to assist in looking after children on the premises ;

(e) require the person to keep a record of the name and address of every—

(i) child looked after,

(ii) person who assists in looking after the child, and

(iii) person who lives or is likely at any time to live, on the registered premises ;

(f) require the person to notify the State Government in writing of any change in the names and address of a person mentioned in paragraph (e) (ii) and (iii) of this subsection.

(4) In determining the maximum number of children to be specified under subsection (3) (a) of this section, the State Government shall take account of the number of other children who may at any time be on the premises.

(5) A State Government may at any time vary, remove or add to any of the conditions imposed under this section.

(6) The Minister may, by regulations, make provision as to conditions—

(a) which shall be imposed by State Governments under this section in prescribed circumstances ;

(b) of such descriptions as may be prescribed which shall not be imposed by State Governments under this section.

(7) In subsection (3) of this section, references to children looked after are references to children looked after in accordance with the provision of day care made by the registered person.

Cancellation
of
registration
of a child
minder.

166.—(1) The State Government may at any time cancel the registration of a child minder if—

(a) it appears to the State Government that the circumstances of the case are such that the State Government would be justified in refusing to register that person as a child minder ; or

(b) the care provided by that person when looking after any child as a child minder is, in the opinion of the State Government, seriously inadequate having regard to the needs of that child ; or

(c) the child minder has—

(i) contravened or failed to comply with any requirement of or condition imposed on him under section 165 of this Act,

(ii) failed to pay any annual fee under paragraph 7 of the Sixth Schedule to this Act within the prescribed time. Sixth Schedule.

(2) The State Government may at any time cancel the registration of a person providing day care for children with respect to particular premises if—

(a) it appears to the State Government that the circumstances of the case are such that it would be justified in refusing to register that person as a person providing day care ;

(b) the care provided by that person when on the premises is, in the opinion of the State Government, seriously inadequate having regard to the needs of the children concerned ; or

(c) that person has—

(i) contravened or failed to comply with any requirement of or condition imposed on him under section 165 of this Act, or

(ii) failed to pay any annual fee under paragraph 7 of Schedule 6 to this Act within the prescribed time.

(3) The State Government may at any time cancel the registration of any person providing day care for children if it appears to it that the circumstances of the case are such that it would be justified in refusing to register that person with respect to any premises.

(4) Where a condition to carry out repairs or make alterations or additions has been imposed on a registered person under section 164 or 165 of this Act, his registration shall not be canceled on the ground that the premises are not fit to be used for looking after children if—

(a) the time set for complying with the condition has not expired ; and

(b) it is shown that the condition of the premises is due to the repairs not having been carried out or the alteration or additions not having been made.

(5) A cancellation under this section shall be in writing.

(6) In considering the needs of a child for the purposes of subsection (1) (b) or (2) (b) of this section, a State Government shall, in particular, have regard to the religious persuasion and cultural and linguistic background of the child.

167.—(1) Where an application is made to the Court for an order—

(a) canceling a registered person's registration ;

(b) varying any condition imposed on a registered person under section 164 or 165 of this Act ; or

(c) removing a condition or imposing an additional condition on such a person, the Court may make the order if it appears to the Court that a child who is being, or may be, looked after by a person, or as the case may be, in accordance with the provision for child minding or day care, is suffering, or is likely to suffer, significant harm.

Protection of
children
emergency
cases of
cancellation
of
registration,
etc.

(2) Any cancellation, variation, removal or imposition order made under this section shall have effect from the date on which the order is made.

(3) An application under subsection (1) of this section may be *ex-parte* and shall be supported by a written statement of the State Government's reasons for making it.

(4) Where an order is made under this section, the State Government shall serve on the registered person, as soon as is reasonably practicable, after the making of the order—

(a) notice of the order and of its terms ; and

(b) a copy of the statement of the State Government's reasons which supported its application for the order.

(5) Where the Court imposes or varies any condition under subsection (1) of this section, the condition, or the condition as varied, shall be treated for all purposes, other than for the purpose of section 173 of this Act, as if it had been imposed under section 164 or 165 of this Act, by the State Government concerned.

Power of the
State
Government
to inspect
premises, etc.

168.—(1) A person authorised to do so by a State Government may, at any reasonable time, enter—

(a) any domestic premises within the State in which child minding is, at any time, carried on ; or

(b) any premises within a State in which day care for children is, at any time, provided.

(2) Where a State Government has reasonable cause to believe that a child is being looked after on any premises within the State in contravention of this Part of this Act, a person authorised to do so by the State Government may enter the premises at any reasonable time.

(3) A person entering any premises under this section may inspect—

(a) the premises ;

(b) child being looked after on the premises ;

(c) the arrangements made for the health welfare of the child being looked after on the premises ; and

(d) any record relating to the child being looked after on the premises which are kept as a result of this Part of this Act.

(4) A person inspecting any record under this section—

(a) shall be entitled at any reasonable time to have access to and inspect ~~and check~~ the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question ; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used, or

(ii) any person having charge of, or otherwise concerned with the operation of the computer, apparatus or material, to afford him such reasonable assistance as he may require.

(5) A person exercising any power conferred by this section shall, if so required, produce some duly authenticated document showing his authority to do so.

(6) A State Government shall exercise its power to inspect the premises mentioned in subsection (1) of this section at least once every year.

(7) A person who intentionally obstructs another person in the exercise of any power conferred under this section, commits an offence and is liable on summary conviction to a fine of two thousand five hundred naira or imprisonment for a term of three months or to both such fine and imprisonment.

169.—(1) The State Government shall, not less than fourteen days before taking any of the following steps—

(a) refusing an application for registration under section 167 of this Act ; or

(b) canceling any registration under section 163 of this Act ; or

(c) refusing consent under paragraph 3 of the Sixth Schedule to this Act ; or

(d) imposing, removing or varying any condition under section 168 or 169 of this Act ;

(e) refusing to grant any application for the variation or removal of any condition, send to the applicant, or, as the case may be, a registered person, notice in writing of its intention to take the step in question.

(2) A notice sent under subsection (1) of this section shall—

(a) give the State Government's reasons for proposing to take the step ; and

(b) inform the person concerned of his rights under this section.

(3) Where the recipient of a notice informs the State Government in writing of his desire to object to the step being taken, the State Government shall afford him an opportunity to do so.

(4) Any objection made under subsection (3) of this section may be made in person or by a representative.

(5) If the State Government, after giving the person concerned an opportunity to object to the step being taken, decides nevertheless to take any step it shall send written notice of its decision.

(6) A person aggrieved by the taking of any step mentioned in subsection (1) of this section may appeal against it to the Court.

(7) Where the Court allows an appeal against a refusal or cancellation of any

State
Government
to give
applicant
notice of
action it
intends to
take.

Sixth
Schedule.

registration under section 166 of this Act, it may impose any condition under section 164 or 165 of this Act or such other condition as it may deem fit.

(8) Where the Court allows an appeal against a condition it may, instead of canceling the condition, vary it.

(9) Where the Court imposes or varies any condition under subsection (7) or (8) of this section, the condition, as varied, shall be treated for all purposes, other than this section, as if it had been imposed by the State Government concerned.

(10) A step referred to in subsection (1) (b) or (d) of this section shall not take effect until the expiry of the time within which an appeal may be brought under this section or where such an appeal is brought, before its determination.

Offences
under this
part.

170.—(1) No person shall provide day care for children under the age of six years in any premises within a State unless he is registered by the State Government under section 163 (1) (b) of this Act with respect to the premises.

(2) A person who contravenes subsection (1) of this Section, without reasonable excuse, commits an offence.

(3) No person shall act as a child minder on any domestic premises within a State unless he is registered by the State Government under Section 163 (1) (a) of this Act.

(4) Where it appears to a State Government that a person has contravened subsection (3) of this section, it may serve an enforcement notice on him.

(5) An enforcement notice shall have effect for a period of six months beginning with the date on which it is served.

(6) A person with respect to whom an enforcement notice is in force who contravenes subsection (3) of this section without reasonable excuse, commits an offence.

(7) Subsection (6) applies whether or not the subsequent contravention occurs within the area of the State Government which served the enforcement notice.

(8) A person who without reasonable excuse contravenes or otherwise fails to comply with any condition imposed on him under section 164 or 165 of this Act, commits an offence.

Sixth
Schedule.

(9) A person who —

(a) acts as a child minder on any domestic premises at any time when he is disqualified by regulations made under paragraph 2 of the Sixth Schedule to this Act ; or

(b) contravenes any provision of sub-paragraph (3), (4) or (5) of paragraph 2 of the Sixth Schedule to this Act, commits an offence.

(10) A person who contravenes sub-paragraph (3) of paragraph 2 of the Sixth Schedule to this Act is not guilty of an offence under this section if he proves that he did not know, and had no reasonable ground for believing, that the person in question was living or employed in the household.

(11) A person who contravenes sub-paragraph (5) of paragraph 2 of the Sixth Schedule to this Act, is not guilty of an offence under this section if he proves that he did not know that the person whom he was employing was disqualified.

(12) A person who, commits an offence under this section is liable on summary conviction—

(a) in the case of an offence under subsection (8) of this section, to a fine not exceeding five thousand naira or imprisonment for a term not exceeding six months or to both such fine and imprisonment ;

(b) in the case of an offence under subsection (9) of this section, to a fine not exceeding ten thousand naira or imprisonment for a term not exceeding one year or to both such fine and imprisonment ;

(c) in the case of any other offence, to a fine not exceeding two thousand five hundred naira or imprisonment for a term of three months or to both such fine and imprisonment.

PART XV—STATE GOVERNMENT SUPPORT FOR CHILDREN AND FAMILIES

171.—(1) A State Government shall, generally—

(a) safeguard and promote the welfare of the children in need within that State ; and

(b) so far as is consistent with that duty, promote the upbringing of those children by their families, by providing a range and level of services appropriate to the needs of the children.

(2) The State Government shall also encourage private organisations who may wish to provide services for children in need to provide such services as may be permitted by the State Government.

(3) Any service provided by the State Government in the discharge of its duty under this section may be provided for the family of a particular child in need or for a member of the family of the child, if the service is provided with a view to safeguarding or promoting the welfare of the child.

(4) Every State Government shall, for the purpose of facilitating the discharge of its general duty under this section, have the duties and powers set out in Part 1 of the Seventh Schedule to this Act.

(5) The Minister may by order amend duties and powers set out in Part 1 of the Seventh Schedule to this Act.

(6) Every State Government—

Provision of
Services for
Children in
need, etc.

Seventh
Schedule.

(a) shall facilitate the provision by voluntary organisations and other bodies of services which the State Government has power to provide by virtue of sections 177, 178, 182 and 183 of this Act ; and

(b) may make such arrangements as it deems fit for any person to act on its behalf in the provision of any of those services.

(7) The services provided by a State Government in the discharge of its duty under this section may include the giving of assistance in kind or in exceptional cases, in cash, and the assistance may be conditional or unconditional.

(8) Before giving assistance or imposing any condition under this section, a State Government shall have regard to the means of the child concerned and of each of his parents.

(9) No person shall be liable to make any repayment of assistance or of its value at anytime when he is in receipt of income support or any form of support from public funds.

(10) For the purposes of this section and other sections of this Part of this Act—

(a) a child shall be taken to be in need if—

(i) the child is unlikely to achieve or maintain or to have the opportunity of achieving or maintaining a reasonable standard of health or development without the provision, for the child, of services by the State Government under this Part of this Act, or

(ii) the health and development of the child is likely to be significantly impaired or further impaired without the provision, for the child, of services provided for under this Part of this Act, or

(iii) the child is disabled, internally displaced, a refugee or is otherwise in especially difficult circumstances ;

(b) a child is disabled if the child is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or any other disability as may be prescribed ;

Day care for
Pre-school
children.

172.—(1) A State Government shall provide such day care for children in need within the State who are—

(a) not more than six years old ; and

(b) not yet attending school, as is appropriate.

(2) A State Government may provide day care for children within the State who satisfy the conditions mentioned in subsection (1) (a) and (b) of this section notwithstanding that those children are not in need.

(3) A State Government may provide facilities, including training, advice, guidance and counselling for persons—

(a) caring for children in day care ; or

(b) who at any time accompany those children while they are in day care.

(4) A State Government shall provide for a child in need within the State who is attending any school such care or supervised activities as is appropriate—

(a) outside school hours ; or

(b) during school holidays.

(5) A State Government may provide such care or supervised activities for children within the State who are attending any school notwithstanding that those children are not in need.

173.—(1) A State Government shall review—

(a) services provided by it under section 175 of this Act ;

(b) the extent to which the services of child minders are available within the state with respect to children under the age of six years ; and

(c) the provision for day care within the State made for children under the age of six years by persons, other than the authority, required to register under section 163 (1) (b) of this Act.

(2) A review under subsection (1) of this section shall be conducted—

(a) together with the appropriate local education authority ; and

(b) at least once in every review period.

(3) A State Government shall, at least once in every review period, review —

(a) the provisions made for day care within the State made for children under the age of six years by the appropriate authority and by persons required to register under section 163 (1) (b) of this Act ;

(b) the extent to which the services of child minders are available within the State with respect to children under the age of six years.

(4) In conducting a review under this section, the State Government shall have regard to the provision made with respect to the children under the age of six years in relevant establishments within the State.

(5) Where a State Government conducts a review under this section, it shall publish the result of the review—

(a) as soon as is reasonably practicable ;

(b) in such form as it considers appropriate ; and

(c) together with any proposals it may have with respect to the matters reviewed.

(6) A State Government conducting a review under this section shall have regard to—

(a) any representations made to it by any relevant health authority or health board ; and

Review of
Provision for
day care
children
minding, etc.

Provision of
accommodation
for children
general.

(b) any other representations which it considers to be relevant.

174.—(1) A State Government shall provide accommodation for a child in need within the State who appears to it to require accommodation where—

(a) there is no person having parental responsibility for the child ; or

(b) the child is lost or has been abandoned or runs away from home ; or

(c) the person who has care for the child is prevented, for any reason whatsoever, from providing the child with accommodation or care.

(2) Where a State Government provides accommodation under subsection (1) of this section for a child who is ordinarily resident in another State, that other State Government may take over the provision of accommodation for the child within—

(a) three months of being notified in writing that the child is being provided accommodation ; or

(b) such other longer period as may be prescribed.

(3) A State Government shall provide accommodation for a child within the State—

(a) whose welfare the appropriate authority considers is likely to be seriously prejudiced if the State Government does not provide the child with accommodation; or

(b) if the State Government considers that to provide the child accommodation would safeguard or promote the welfare of the child notwithstanding that the person who has parental responsibility for the child is able to provide him accommodation.

(4) Before deciding to provide accommodation under this section, a State Government shall, so far as is reasonably practicable and consistent with the welfare of the child—

(a) ascertain the wishes of the child regarding the provision of accommodation ; and

(b) given due consideration, having regard to his age and understanding, to such wishes of the child as it has been able to ascertain.

(5) A State Government shall not provide accommodation under this section for a child if a person who—

(a) has parental responsibility for the child ; and

(b) is willing and able to —

(i) provide accommodation for the child, or

(ii) arrange for accommodation to be provided for the child, objects.

(6) A person who has parental responsibility for a child may at any time remove the child from the accommodation provided by or on behalf of the State Government under this section.

(7) Subsections (5) and (6) of this section do not apply where a person—

- (a) in whose favour a residence order is in force with respect to the child ; or
- (b) who has care of the child by virtue of an order made in the exercise of the jurisdiction of the Court at the High Court level with respect to children, agrees that the child be cared for in an accommodation provided by or on behalf of the State Government.

(8) Where there is more than one such person as is mentioned in subsection (7) of this section, all of those persons shall agree.

175.—(1) A State Government shall make provision for the reception and accommodation of children who are removed or kept away from home—

- (a) under Part IV of this Act ;
- (b) under police protection ;
- (c) on remand or a supervision order ; or
- (d) for any other reason, by the appropriate authority.

Provision of
accommoda-
tion for
children
Protection
detention or
remand , etc.

(2) Where a child, who has been removed, received or detained under subsection (1) of this section, is not being provided with accommodation by the State Government or in a government hospital, any reasonable expenses of accommodating the child shall be recoverable from the State Government in whose State the child is ordinarily resident.

176. Where, in this Part of this Act, a reference is made to a child who is looked after by a State Government, that reference is to a child who is—

- (a) in the care of the State Government ; or
- (b) provided with accommodation by the State Government in the exercise of any functions under this Part of this Act.

Reference to
child looked
after by State
Government.

177.—(1) A State Government looking after a child shall—

- (a) safeguard and promote the welfare of the child ; and
- (b) make such use of services available for children looked after by their own parent as appears to the State Government reasonable in each case.

(2) In making a decision referred to in subsection (3) of this section, a State Government shall give due consideration—

- (a) having regard to the age and understanding of the child, to such wishes and feeling of the child as it has been able to ascertain ;
- (b) to such wishes and feelings of any person mentioned in subsection (3) (b) to (d) of this section as it has been able to ascertain ; and
- (c) to the religious persuasion, racial origin, ethnic, cultural and linguistic background of the child.

Duty of
State
Government
to provide
for the
welfare of
Children
looked after
by it.

(3) A State Government, before making any decision with respect to a child being looked after or proposed to be looked after by it shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

- (a) the child ;
- (b) the parents of the child ;
- (c) a person who, though not a parent of a child, has parental responsibility for the child ; or
- (d) any other person whose wishes and feelings the State Government considers to be relevant ; regarding the matter to be decided.

(4) If it appears to a State Government that it is necessary, for the purpose of protecting members of the public from serious injury to exercise its powers with respect to a child whom it is looking after in a manner which may not be consistent with its duties under this section, it may do so.

(5) If the Minister considers it necessary, for the purpose of protecting members of the public from serious injury to give directions to an appropriate authority with respect to the exercise of its powers with respect to a child whom it is looking after, he may give such directions to the appropriate authority.

(6) An appropriate authority shall comply with a direction given to it under this section notwithstanding that doing so is inconsistent with its duties under this section.

Provision of accommodation and maintenance by State Government for children looked after by it.

178.—(1) A State Government looking after a child shall —

- (a) when the child is in its care, provide accommodation for him ; and
- (b) maintain the child in other respects in addition to providing accommodation for him.

(2) A State Government shall provide accommodation and maintenance for a child under this section by—

(a) placing him, subject to subsection (5) of this section and any regulations made by the Minister, with—

- (i) a family, or
- (ii) a relative of the child, or
- (iii) any other suitable person, on such terms as to payment by the State Government and otherwise as the State Government may determine ; or
- (b) maintaining the child in —
 - (i) a community home, or
 - (ii) a voluntary home, or
 - (iii) a registered children home, or

(iv) a home provided by the Minister under subsection (5) of this section, on such terms as the Minister may, from time to time, determine ; or

- (c) making such other arrangements which—
 - (i) may seem appropriate to it, and
 - (ii) comply with regulations made by the Minister.

(3) A person with whom a child has been placed under subsection (2) (a) of this section shall be referred to in this Act as a State Government foster parent unless he falls within subsection (4) of this section.

(4) A person falls within this section if he is—

- (a) a parent of the child ; or
- (b) a person who though not a parent of a child, has parental responsibility for the child ; or
- (c) where the child is in care and there was a residence order in force with respect to him immediately before the care order was made, a person in whose favour the residence order was made.

(5) Where a child is in the care of a State Government, the State Government may only allow him to live with a person who falls within subsection (4) of this section in accordance with regulations made by the Minister.

(6) Subject to any regulations made by the Minister for the purposes of this subsection, a State Government looking after a child shall make arrangements to enable the child to live with—

- (a) a person falling within subsection (4) of this section ; or a relative, friend or other person connected with the child, unless that would not be reasonably practicable or consistent with the welfare of the child.

(7) Where a State Government provides accommodation for a child who it is looking after, it shall, subject to the provisions of this Part of this Act and so far as is reasonably practicable and consistent with his welfare, secure that—

- (a) the accommodation is near the home of the child ;
- (b) where the State Government is also providing accommodation for sibling of the child, they are accommodated together.

(8) Where a State Government provides accommodation for a disabled child under its care it shall, so far as is reasonably practicable, ensure that the accommodation is suitable for his particular needs.

(9) Part II of the Seventh Schedule to this Act have effect for the purposes of making further provisions as to children looked after by State Government and in particular as to the regulations that may be made under subsections (2) (a), (2) (c) and (5) of this section.

Seventh
Schedule.

179.—(1) Where a child is being looked after by a State Government, the State Government shall advise, assist and befriend the child with a view to promoting his welfare when he ceases to be looked after by it.

Advise and
assistance for
certain
children, etc.

(2) A person qualifies for advice and assistance under this section, if he is under the age of twenty-one years and was, at any time after attaining the age of eighteen years, but while still a child he was—

(a) looked after by a State Government ; or

(b) accommodated by or on behalf of a voluntary organisation ; or

(c) accommodated in a registered children home ; or

(d) accommodated—

(i) by any health authority or education authority ; or

(ii) in any residential care home, nursing home or mental nursing home, for a consecutive period of at least three months ; or

(e) fostered privately, but has ceased to be so looked after, accommodated or fostered.

(3) Subsection (2) (d) of this section applies if the period of three months mentioned in that subsection began before the child attained the age of eighteen years.

(4) Where —

(a) a State Government knows that there is, within the State a person qualifying for advice and assistance ;

(b) conditions in subsection (5) of this section are satisfied ; and

(c) a person has asked for help of a kind which a State Government can give under this section, the State Government shall, if the person was being looked after by a State Government or was accommodated by or on behalf of a voluntary organisation and, may, in any other case, advise and befriend the child.

(5) The conditions which shall be satisfied under subsection (4) of this section are that—

(a) it appears to the State Government that the person concerned is in need of advice and being befriend ;

(b) where the person was not being looked after by the State Government, it is satisfied that the person looking after him does not have the necessary facilities to advise or befriend him.

(6) Where, as a result of this section, a State Government is under a duty, or is empowered, to advise and befriend a person, it may also give that person assistance.

(7) Assistance given under subsections (1) and (6) of this section may be in kind or, in exceptional circumstances, in cash.

(8) A State Government may give assistance to a person who qualifies for advice and assistance by virtue of subsection (2) (a) of this section by—

(a) contributing to expenses incurred by him in living near the place where he is, or will be—

(i) employed or seeking employment ; or

(ii) receiving education or training ;

(b) making a grant to enable him to meet expenses connected with his education or training.

(9) Where a State Government is assisting a person under subsection (8) of this section by making a contribution or grant with respect to a course of education or training, it may—

(a) continue to do so notwithstanding that the person attains the age of twenty-one years before completing the course ; and

(b) disregard any interruption in this attendance on the course of training if he resumes it as soon as it reasonably practicable.

(10) Subsections (7) and (9) of section 178 of this Act shall apply in relation to assistance given under this section, as they apply in relation to assistance given under that section.

(11) Where it appears to a State Government that a person it had been advising and befriending under this section, is a person who qualifies for advice and assistance proposes to live, or is living, in another State, it shall inform that other State Government.

(12) Where a child who is accommodated by—

(a) a voluntary organisation or in a registered children home ; or

(b) any health authority or education authority ; or

(c) any residential care home, nursing home or mental nursing home, ceases to be so accommodated, after attaining the age of eighteen years, the organisation, authority or, as the case may be, person managing the home shall inform the State Government in whose State the child proposes to live.

(13) Subsection (12) of this section only applies, by virtue of paragraph (b) or (c) of that subsection, if the accommodation has been provided for a consecutive period of at least three months.

180.—(1) Subject to the following provisions of this section, a child who is being looked after by a State Government shall not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty known as secure accommodation unless it appears that—

Use of
accommoda-
tion for
restricting
liberty.

(a) the child—

(i) has a history of absconding and is likely to abscond from accommodation of any other description ; and

(ii) is likely to suffer significant harm if he absconds ;

(b) if the child is kept in accommodation or any other description, he is likely to injure himself or other persons.

(2) The court hearing an application under this section shall determine whether any relevant criteria for keeping a child in secure accommodation as specified under subsection (1) of this section are satisfied in this case.

(3) Where the court determines that the relevant criteria are satisfied, it shall make an order authorising the child to be kept in secure accommodation and specifying the maximum period for which the child may be kept.

(4) On any adjournment of the hearing of an application under this section, the Court may make an interim order permitting the child to be kept during the period of the adjournment in secure accommodation.

(5) No court shall exercise the powers conferred by this section in respect of a child who is not legally represented in the court, unless—

(a) the child, having regard to this age and understanding ; and

(b) the parents of the child ; or

(c) person who, though not a parent of a child, has parental responsibility for the child ; or

(d) any other person it considers relevant, having been informed of the right of the child to apply for legal aid and having had the opportunity to do so, had refused or failed to apply.

(6) The giving of an authorisation under this section shall not prejudice any other court to give directions relating to the child to whom the authorisation relates.

(7) The Minister may, by regulations—

(a) specify a maximum period—

(i) beyond which a child shall not be kept in secure accommodation without the authority of the court, or

(ii) for which the court may authorise a child to be kept in secure accommodation ;

(b) empower the court, from time to time, to authorise a child to be kept in secure accommodation for such further period as the regulations may specify ;

(c) provide that applications to the court under this section shall be made only by State Governments and

(d) providing that—

(i) this section shall or shall not apply to any description of children specified in the regulations,

(ii) this section shall apply in relation to children of a description specified in the regulations subject to such modifications as may be so specified, and

(iii) such other provisions, as may be so specified, shall have effect for the

purpose of determining whether a child of a description specified in the regulations may be placed or kept in secure accommodation.

(8) This section is subject to section 178 (6) of this Act.

181.—(1) The Minister may make regulations requiring the case of each child who is being looked after by a State Government to be reviewed in accordance with the provisions of the regulations.

Review of
cases and
inquiries into
representatives.

(2) The regulations may, in particular, make provisions—

(a) as to the manner in which each case is to be reviewed ;

(b) as to the considerations to which a State Government is to have regard in reviewing each case ;

(c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews ;

(d) requiring a State Government, before conducting any review, to seek the views of—

(i) the child, having regard to his age and understanding,

(ii) the parents of the child,

(iii) a person who though not a parent of a child, has parental responsibility for the child ; and

(iv) any other person it considers relevant, including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review ;

(e) requiring the State Government to consider, in the case of a child who is in its care, whether an application should be the care order ;

(f) requiring the State Government to consider, in the case of a child in accommodation provided by the State Government, whether the accommodation accords with the requirements of this Part of this Act ;

(g) requiring the State Government to inform—

(i) the child, so far as is reasonably practicable,

(ii) the parents of the child,

(iii) a person who, though not a parent of a child has parental responsibility for the child ; and

(iv) any other person it considers relevant, of any steps he may take under this Act ;

(h) requiring the State Government to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which it proposes to take in the course, or as a result of the reviews ;

(i) requiring the State Government to monitor the arrangements which it has

made with a view to ensuring that it complies with the regulations ;

(j) requiring the State Government to notify details of the result of the review and of any decision taken by it in consequence of the review to—

(i) the child,

(ii) the parents of the child,

(iii) a person who, though not a parent of a child has parental responsibility for the child, and

(iv) any other person whom it considers ought to be notified.

(3) Every State Government shall establish a procedure for considering a representation including a complaint, made to it by—

(a) a child who is being looked after by the State Government or who is not being looked after by it but is in need ;

(b) a parent of the child ;

(c) a person who, though not a parent of a child has parental responsibility for the child ;

(d) any State Government foster parent ;

(e) such other person as the State Government considers has a sufficient interest in the child's welfare to warrant his representations being considered by it, about the discharge by the State Government of any of its functions under this Part of this Act in relation to the child.

(4) The procedure established pursuant to subsection (3) of this section shall ensure that at least one person who is not a member or officer of the State Government takes part in the—

(a) considerations ; and

(b) discussions which are held by the State Government about the action, if any, to be taken in relation to the child in the light of the considerations.

(5) In carrying out any consideration of representations under this section, a State Government shall comply with any regulations made by the Minister for the purpose of regulating the procedure to be followed.

(6) The Minister may make regulations requiring State Governments to monitor the arrangements that they have made with a view to ensuring that they comply with regulations made, for the purposes of subsection (5) of this section.

(7) Where a representation has been considered under the procedure established by a State Government under this section, that State Government shall—

(a) have due regard to the findings of those considering the representation ;

(b) take such steps as are reasonably practicable to notify, in writing—

- (i) the person making the representation,
- (ii) the child, if the State Government considers that he has sufficient understanding, and
- (iii) the parents of the child, or
- (iv) such other persons, if any, as appear to the State Government to be likely to be affected, of that State Government's decision in the matter and its reasons for taking that decision and of any action which has taken or proposes to take.

(8) Every State Government shall give such publicity to its procedure for considering representations under this section as it considers appropriate.

182.—(1) Where it appears to a State Government that any authority or other person mentioned in subsection (3) of this section could, by taking any specified action, help in the exercise of any of its functions under this Part, it may request the help of that other authority or person, specifying the action in question.

Co-operation
between
authorities.

(2) An authority or a person whose help is requested under subsection (1) of this section shall comply with the request if it is compatible with the authority's or person's own statutory or other duties and obligations and does not unduly prejudice the discharge of any of the authority's or person's functions.

(3) Subsection (2) of this section refers to—

- (a) a State Government ;
- (b) an education authority ;
- (c) a housing authority ;
- (d) a health authority ; and
- (e) a person authorised by the Minister for the purposes of this section.

(4) Every State Government shall assist an education authority with the provision of services for a child within its State who has special educational needs.

183.—(1) Where—

- (a) a child is being looked after by a State Government ; and
- (b) a State Government proposes to provide accommodation for a child in an establishment at which education is provided for children who are accommodated there, it shall, so far as is reasonably practicable, consult the appropriate education authority before doing so.

Consultation
with the
education
authorities.

(2) Where a proposal under subsection (1) (b) of this section is carried out, the State Government shall, as soon as is reasonably practicable, inform the appropriate education authority of the arrangements that have been made for the child's accommodation.

(3) Where the child ceases to be accommodated as mentioned in subsection (1) (b) of this section, the State Government shall inform the appropriate education authority, accordingly.

Recoupment
of cost of
Providing
services etc.

184.—(1) Where a State Government provides any service under section 175 or 177 of this Act, other than advice, guidance or counselling, it may recover from a person specified in subsection (4) of this section such charges for the service as may be considered reasonable.

(2) Where the State Government is satisfied that the means of the person specified in subsection (4) of this section are insufficient for it to be reasonably practicable for him to pay the charges under subsection (1) of this section, it shall not require him to pay more than he can reasonably be expected to pay.

(3) No person shall be liable to pay any charge under subsection (1) of this section at any time when he is in receipt of income support or family credit under any law.

(4) The persons referred to in subsections (1), (2) and (3) of this section are, where the service is provided for—

(a) a child under the age of eighteen years who is not in gainful employment, each of his parents ;

(b) a child who has attained the age of eighteen years, who is in gainful employment, the child himself ; and

(c) a member of the child's family, that member.

(5) Any charge under subsection (1) of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(6) Where the State Government provides an accommodation under section 178 (1) of this Act for a child who was, immediately before it began to look after him, ordinarily resident within the area of another State Government, the State Government may recover from that other State Government any reasonable expenses incurred by it in providing the accommodation and maintaining the child.

(7) Where a State Government provides accommodation under section 178 (1) and (2) (a) of this Act for a child who is ordinarily resident in another State and it is not maintaining the child in—

(a) a community home provided by it ;

(b) a controlled community home ; or

(c) a Government hospital, it may recover from that other State Government any reasonable expenses incurred by it in providing the accommodation and maintaining the child.

(8) Where a State Government complies with any request under sections 178 (2) and 186 (1) of this Act in relation to a child or other person who is not ordinarily

resident in the State, it may recover from the State Government in whose State the child or person is ordinarily resident any expenses reasonably incurred by it in respect of that child or person.

(9) Part III of the Eight Schedule to this Act contains provisions for Eight Schedule contributions towards the maintenance of children who are being looked after by State Governments. Eight Schedule.

185. —(1) Nothing in this Part of this Act shall affect any duty imposed on a State Government by or under any other enactment not inconsistent with this Act. Miscellaneous.

(2) Any question arising under sections 178 (2), 179 (2) or 188 (6) to (8) of this Act as to the ordinary residence of a child shall be determined by agreement between the State Governments concerned or, in default of agreement, by the Minister.

(3) Where the functions conferred on a State Government by this Part of this Act and the functions of an education authority are concurrent, the Minister may by regulations specify which of them is to perform the functions.

(4) The Minister may make regulations for determining, as respect any education authority functions specified in the regulations, whether a child who is being looked after by a State Government is to be treated, for purposes so specified, as a child of parents of sufficient resources or as a child of parents without resources.

PART XVI—COMMUNITY HOMES

186.—(1) Every State Government shall make such arrangements as it considers appropriate for securing homes, to be known as community homes for— Securing Community Home.

- (a) the care and accommodation of children looked after by it ; and
- (b) purposes connected with the welfare of children, whether or not looked after by it.

(2) In making such arrangements, a State Government shall have regard to the need for securing the availability of accommodation.

(3) A community home may be—

- (a) provided, managed, equipped and maintained by a State Government ; or
- (b) provided by a voluntary organisation but in respect of which a State Government and the organisation—

(i) propose that, in accordance with an instrument of management, the management, equipment and maintenance of the home shall be the responsibility of the State Government, or

(ii) propose that the management, equipment and maintenance of the home shall be the responsibility of the voluntary organisation.

(4) Where a State Government is to be responsible for the management of a community home provided by a voluntary organisation, the State Government shall

designate the home as a "controlled community home".

(5) Where a voluntary organisation is to be responsible for the management of a community home provided by the voluntary organisation, the State Government shall designate the home as an "assisted community home".

Eight
Schedule.

(6) The Eight Schedule to this Act shall have effect for the purpose of supplementing the provisions of this Part of this Act.

Directives by
Minister to
discontinue
the use of
premises as
Community
homes.

187.—(1) Where it appears to the Minister that—

(a) any premises used for the purposes of a community home is unsuitable for those purposes ; or

(b) the conduct of a community home—

(i) is not in accordance with regulations made by him under paragraph 4 of the Eighth Schedule to this Act, or

(ii) is otherwise unsatisfactory, he may, by notice in writing served on the body concerned, direct that, as from such date as may be specified in the notice, the premises shall not be used for the purposes of a community home.

(2) Where—

(a) the Minister has given a direction under subsection (1) of this section ; and

(b) the direction has not been revoked, he may at any time by order revoke the instrument of management for the community home concerned.

(3) For the purposes of subsection (1) of this section, the body concerned shall in relation to—

(a) a community home provided by a State Government, be that State ;

(b) a controlled community home, be the State Government specified in the instrument of management of the community home ; and

(c) an assisted community home, be the voluntary organisation which provided the community home.

Determination
of disputes
relating to
controlled
and assisted
Community
homes.

188.—(1) Where a dispute relating to a controlled community home arises between the State Government specified in the instrument of management of the community home and—

(a) the voluntary organisation which provided the community home ; or

(b) any other State Government that has placed, or desires or is required to place, in the community home, a child who is looked after by it, the dispute may be referred by either party to the Minister for his determination.

(2) Where a dispute relating to an assisted community home arises between the voluntary organisation which provided the community home and the State Government that has placed, or desires to place, in the community home, a child who is looked

after by it, the dispute may be referred by either party to the Minister for his determinations.

(3) Where a dispute is referred to the Minister under this section, he may, in order to give effect to his determination of the dispute, give such direction as he thinks fit to the State Government or voluntary organisation concerned.

(4) This section applies notwithstanding that the matter in dispute may be one which, under or by virtue of Part II of the Eighth Schedule to this Act, is reserved for the decision, or is the responsibility, of—

Eight
Schedule.

(a) the State Government specified in the instrument of management of the community home ; or

(b) the voluntary organisation which provided the community home, as the case may be.

189.—(1) A voluntary organisation which has provided or is managing a controlled or an assisted community home shall not cease to provide or manage the home unless it has given to the Minister and the appropriate authority specified in the instrument of management of the community home not less than two years notice in writing of its intention to do so.

Disconti-
nuance of
Controlled or
assisted
Community
home.

(2) A notice given under subsection (1) of this section shall specify the date from which the voluntary organisation intends to cease to provide or manage the community home.

(3) Where a notice given under subsection (1) of this section is not withdrawn before the date specified in it, the instrument of management of the community home shall cease to have effect on that date and the community home shall then cease to be a controlled or an assisted community home, as the case may be.

(4) Where a notice is given under subsection (1) of this section and the voluntary organisation gives notice in writing to the Minister that it is unable or unwilling to continue to provide or manage the community home until the date specified in the notice given under subsection (1) of this section, the Minister may, by order—

(a) revoke the instrument of management of the community home ; and

(b) require the State Government specified in the instrument of management to manage the home until—

(i) the date specified in the notice given under subsection (1) of this section, or

(ii) such earlier date, if any, as may be specified for the purposes of this paragraph in the order, as if it were a community home provided by the State Government.

(5) Where the Minister imposes a requirement under subsection (4) (b) of this section—

(a) nothing in the instrument of management of the community home shall affect the management of the community home by the State Government ;

(b) the Minister may by order direct that, for the purposes of any provision specified in the direction made by or under any enactment relating to community homes, other than this section, the community home shall, until the date or earlier date referred to in subsection (4) (b) of this section, be treated as a controlled or an assisted community home ;

(c) except in so far as the Minister so directs, the community home shall, until the date or earlier date referred to in subsection (4) (b) of this section, be treated for the purposes of any enactment relating to community homes, other than this section, as a community home provided by the State Government ; and

(d) the community home shall, on the date or earlier date referred to in subsection (4) (b) (i) or (ii) of this section, cease to be a community home.

Closure by
State
Government
of controlled
or assisted
community
homes.

190.—(1) The State Government specified in the instrument of management of a controlled or an assisted community home may give to—

(a) the Minister ; and

(b) the voluntary organisation which provided the home, not less than two year's notice in writing of its intention to withdraw its designation of the home as a controlled or an assisted community home.

(2) A notice given under subsection (1) of this section shall specify the date to be known as the specified date on which the designation is to be withdrawn.

(3) Where —

(a) a notice is given under subsection (1) of this section in respect of a controlled or an assisted community home ; and

(b) the appropriate authority managing the community home—

(i) gives notice in writing to the Minister that it is unable or unwilling to continue to manage the community home until the specified date, and

(ii) does not withdraw the notice, the Minister may, by order, revoke the instrument of management of the community home from such date earlier than the date specified in the notice given under subsection (1) of this section as may be specified in the order.

(4) The Minister shall, before making an order under subsection (3) of this section, consult the State Government and the voluntary organisation concerned.

(5) Where a notice has been given under subsection (1) of this section and is not withdrawn, the instrument of management of the community home shall cease to have effect—

- (a) on the date specified in the notice ;or
- (b) where an earlier date has ben specified under subsection (3) of this section, on the earlier date, and the community home shall then cease to be a controlled or an assisted community home, as the case may be.

PART XVII—VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

191.—(1) Where a voluntary organisation provides accommodation for a child, it shall do so by—

Provision of
accommoda-
tion by
voluntary
organisations.

(a) placing the child, subject to subsection (2) of this section, with—

(i) a family,

(ii) a relative of the child,

(iii) any other suitable person, on such terms as to payment by the voluntary organisation and otherwise as the voluntary organisation may determine ; or

(b) maintaining the child in—

(i) a voluntary home, or

(ii) a community home, or

(iii) a registered children's home, or

(iv) a home provided by the Minister under section 201 (4) of this Act, on such terms as the Minister may, from time to time, determine ; or

(c) making such other arrangements, subject to subsection (2) (b) of this section as seem appropriate to its.

(2) The Minister may make regulations—

(a) as to the placing of children with foster parents by voluntary organisations and the regulations may, in particular, make provision, which with, any necessary modification, are similar to the provisions that may be made under section 181 (2)

(a) of this Act ;

(b) as to the arrangements which may be made under Subsection (1) (c) of this section and the regulations may, in particular, make provisions which, with any necessary modifications are similar to the provisions that may be made under section 181 (2) (c) of this Act ;

(c) requiring any voluntary organisation which is providing accommodation for a child to—

(i) review his case ; and

(ii) consider any representation, including any complaints, made to it by any person falling withing a prescribed class of person, in accordance with the provisions of the regulations ;

Registration
and
regulation of
voluntary
homes.

192.—(1) No person shall establish or manage a voluntary home unless the home is registered in a register to be kept for the purposes of this section by the Minister.

(2) The register shall be kept in such form as the Minister may, from time to time, specify.

Duties of
voluntary
organisa-
tions.

193.—(1) Where a child is accommodated by or on behalf of a voluntary organisation, the voluntary organisation shall—

(a) safeguard and promote the welfare of the child ;

(b) make such use of the services and facilities available for children cared for by their own parent as appears to the voluntary organisation reasonable in the case of the child ; and

(c) advise, assist and befriend the child with a view to promoting the welfare of the child when the child ceases to be so accommodated.

(2) Before making any decision with respect to a child under subsection (1) of this section, the voluntary organisation shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

(a) the child ;

(b) the parents of the child ;

(c) a person who, though not a parent of a child has parental responsibility for the child ; and

(d) any other person whose wishes and feeling the voluntary organisation considers to be relevant, regarding the matter to be decided.

(3) A voluntary organisation shall, in making a decision under this section, give due consideration to—

(a) such wishes and feelings of the child as it has been able to ascertain, having regard to the age and understanding of the child ;

(b) such other wishes and feelings mentioned in subsection (2) of this section as it has been able to ascertain ; and

(c) the religious persuasion, ethnic or racial origin, cultural and linguistic background of the child.

Duties of the
State
Government.

194.—(1) Every State Government shall satisfy itself that any voluntary organisation which provides accommodation for a child—

(a) within the State ; or

(b) outside that State on behalf of the State, satisfactorily safeguards and promotes the welfare of the child which it provides with accommodation.

(2) Every State Government shall arrange for children who are accommodated within its State by or on behalf of voluntary organisations to be visited, from time to time, in the interest of the welfare of the children.

(3) Subsection (2) of this section does not apply in relation to community homes.

(4) Where a State Government is not satisfied that the welfare of a child who is accommodated by or on behalf of a voluntary organisation is being satisfactorily safeguarded or promoted, it shall—

(a) unless it considers that it would not be in the best interest of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—

(i) a parent of the child,

(ii) a person who, though not a parent of a child, has parental responsibility for the child, or

(iii) a relative of the child ; and

(b) consider the extent to which, if at all, it could exercise any of its powers with respect to the child.

(5) A person authorised by a State Government may for the purpose of enabling the State Government to discharge its duties under this section—

(a) enter, at any reasonable time, and inspect any premises in which children are being accommodated as mentioned in subsection (1) or (2) of this section ;

(b) inspect the children in those premises ; and

(c) require any person to furnish him with such records of a kind required to be kept by regulations made under paragraph 7 of the Ninth Schedule to this Act, in whatever form they are held, or allow him to inspect such records, as the Minister may, from time to time, direct.

Ninth
Schedule.

(6) A person exercising the power conferred by subsection (5) of this section shall, if asked to do so, produce some duly authenticated documents showing his authority to do so.

(7) A person authorised to exercise the power conferred by subsection (5) of this section to inspect records—

(a) shall be entitled, at any reasonable time, to have access to, and inspect and check the operation of any computer and associated apparatus or material which is or has been in use in connection with the records in question ; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used, or

(ii) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford him such assistance as he may reasonably require.

(8) A person who intentionally obstructs any other person in the exercise of any power conferred by subsection (5) or (7) of this section commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred naira or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(9) The Minister may make regulations—

(a) requiring every child who is accommodated within a State, by or on behalf of a voluntary organisation, to be visited by an officer of the State government—

(i) in prescribed circumstances, and

(ii) on specified occasions or within specified periods ; and

(b) imposing requirements which shall be met by any State Government, or officer of a State Government, carrying out functions under this section.

PART XVIII—REGISTERED CHILDREN'S HOMES

Registration,
etc. of
children's
homes.

195.—(1) No child shall be cared for or provided with accommodation in a children's home unless the home is registered under this Part of this Act.

(2) The Minister may cause a register to be kept for the purpose of subsection (1) of this section in such form as he may, from time to time, specify, including by means of a computer.

(3) Subject to any exemption by or under this section and regulations made by the Minister for the purposes of this subsection, a home is a children's home if it provides, or usually provides or is intended to provide care and accommodation wholly or mainly for more than three children at any one time.

(4) An independent school is a children's home if—

(a) it provides accommodation for not more than fifty children ; and

(b) it is not approved by the Ministry of Education or other education authority established under the appropriate laws on education applicable in the State.

(5) A home is not a children's home for the purposes of this Part of this Act if it is—

(a) a community home ;

(b) a voluntary home ;

(c) a residential care home, nursing home or mental nursing home ;

(d) a health services hospital ;

(e) a home provided, equipped and maintained by the Minister ; or

(f) a school, but subject to subsection (4) of this section.

(6) A child is not cared for and accommodated in a children's home when—

(a) he is cared for and accommodated by—

(i) his parent,

(ii) a person who, though not a parent of a child, has parental responsibility for the child, or

(iii) his relative ; or

(b) a person mentioned in paragraph (a) (i) or (ii) of this section is living in the home ; or

(c) the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the home.

(7) A person who, without reasonable excuse, cares for and accommodates a child in a children's home or who manages a children's home which is not a registered children's home, commits an offence and is liable on conviction to a fine not exceeding ten thousand naira or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(8) The provisions of—

Tenth
Schedule.

(a) Tenth Schedule to this Act shall have effect with respect to children's homes ; and

(b) Part I of the Fourth Schedule to this Act sets out the circumstances in which a person may foster more than three children without being treated as managing a children's home.

Fourth
Schedule.

196.—(1) Where a child is accommodated in a children's home, the person managing the children's home shall—

Welfare etc.
of children in
homes.

(a) safeguard and promote the welfare of the child ;

(b) make such use of the services and facilities available for children cared for by their own parents as appear to that person reasonable in the case of the child ; and

(c) advise, assist and befriend the child with a view to promoting his welfare when he ceases to be so accommodated.

(2) Before making any decision with respect to a child accommodated in a children's home, the person managing the children's home shall, so far as is reasonably practicable, ascertain the wishes and feelings of the child.

(3) In making the decision, the person concerned shall give due consideration—

(a) having regard to the child's age and understanding, to such wishes and feelings of the child as the person has been able to ascertain ;

(b) to such other wishes and feelings mentioned in subsection (2) of this section as he has been able to ascertain ; and

(c) to the religious persuasion, racial origin, ethnic origin, cultural and linguistic

background of the child.

(4) Section 198 of this Act, except subsection (4) of that section, shall apply in relation to any person who is managing a children's home as it applies in relation to a voluntary organisation.

Persons
disqualified
from
managing, or
being
employed in
children's
homes.

197.—(1) A person who is disqualified from fostering a child privately shall not manage, or be otherwise concerned in the management of, or have any financial interest in, a children's home unless he has—

- (a) disclosed to the responsible authority the fact that he is so disqualified ; and
- (b) obtained the written consent of the responsible authority.

(2) No person shall employ in a children's home a person who is disqualified from fostering a child privately unless he has—

- (a) disclosed to the responsible authority the fact that he is so disqualified ; and
- (b) obtained the written consent of the responsible authority.

(3) Where a responsible authority refuses to give its consent under this section, it shall inform the applicant by a written notice which states—

- (a) the reason for the refusal ;
- (b) the applicant's right to appeal against the refusal to the Court under paragraph 8 of Schedule 10 to this Act ; and
- (c) the time within which he may appeal.

(4) A person who contravenes subsection (1) or (2) of this section commits an offence and is liable on summary conviction to a fine not exceeding ten thousand Naira or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Inspection of
children's
home, etc. by
authorize
persons

PART XIX—SUPERVISORY FUNCTIONS AND RESPONSIBILITIES OF THE MINISTER

198.—(1) The Minister may cause to be inspected, from time to time, any—

- (a) children's home ;
- (b) premises in which a child who is being cared for by an appropriate authority is living ;
- (c) premises in which a child who is being accommodated by or on behalf of an education authority, health authority or voluntary organisation is living ;
- (d) premises in which a child is living with a person with whom he has been placed pending an adoption order ;
- (e) premises in which a child who is a protected child, is or will be living ;
- (f) premises in which a child, fostered privately, or a child who is treated as a fostered child by virtue of paragraph 9 of Part III of the Fourth Schedule to this Act, is or will be living ;

Fourth
Schedule.

- (g) premises on which a person is acting as a child minder ;
- (h) premises with respect to which a person is registered under section 168 (1) (b) of this Act ;
- (i) a residential care home, nursing home or mental nursing home ;
- (j) premises which are provided by a State Government and in which any service is provided by that State Government under Part XV of this Act ;
- (k) independent school providing accommodation for a child.

(2) An inspection under this section shall be conducted by a person authorised to do so by the Minister.

(3) An officer of a State Government shall not be authorised as provided in subsection (2) of this section except with the consent of that State Government.

(4) The Minister may require a person specified in subsection (5) of this section to furnish him with such information, or allow him to inspect such records, in whatever form they are held, relating to—

- (a) any premises to which subsection (1) of this section applies ; or
- (b) a child who is living in any of the premises to which subsection (1) of this section applies ; or
- (c) the discharge by the Minister of any of his functions under this Act ; or
- (d) the discharge by any State Government of any of its functions under this Act, as the Minister may, from time to time, direct.

(5) The persons referred to in subsection (4) of this section are—

- (a) a State Government ;
- (b) a voluntary organisation ;
- (c) a person managing a children's home ;
- (d) the proprietor of an independent school ;
- (e) a person fostering a child or providing accommodation for a child on behalf of a State Government, education authority, health authority or voluntary organisation ;
- (f) an education authority providing accommodation for a child ;
- (g) a person employed in a teaching or administrative capacity ;
- (h) a person who occupies any premises in which a person acts as a child minder, within the meaning of Part XIV of this Act, or provides day care for young children, within the meaning of that Part ;
- (i) a person managing any home of a kind mentioned in subsection (1) (j) of this section.

(6) A person inspecting any home or other premises under this section may—

- (a) inspect the children kept in the home or premises ; and
- (b) make such examination into the State and management of the home or

premises and the treatment of the children kept in the home or premises as he thinks fit.

(7) A person authorised by the Minister to exercise the power to inspect records conferred by subsection (4) of this section—

(a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer, any associated apparatus or material which is or has been in use in connection with the records in question ; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used, or

(ii) any person having charge of or otherwise concerned with the operation of the computer, apparatus or material, to afford him such reasonable assistance as he may require.

(8) A person authorised to inspect any premises under this section shall have a right to enter the premises for that purpose, and for any purpose specified in subsection (4) of this section, at any reasonable time and, if so required, shall produce some authenticated document showing his authority to do so.

(9) A person who wilfully obstructs another person in the exercise of a power conferred by this section commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred naira or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(10) The Minister may by order provide that subsections (1), (4) and (6) of this section, not apply in relation to such homes, or other premises, as may be specified in the order and the order may make different provisions with respect to each of those subsections.

Inquiries.

199.—(1) The Minister may cause an inquiry to be held into any matter connected with—

(a) the functions of the Supervision Inspection Service in the State ;

(b) the functions of an adoption service ;

(c) the functions of a voluntary organisation, in so far as those functions relate to children ;

(d) a registered children's home or voluntary home ;

(e) a residential care home, nursing home or mental nursing home, so far as it provides accommodation for children ;

(g) the detention of a child under this Act .

(2) In this section—

“functions” includes powers and duties which a person has, otherwise than by virtue of any enactment.

200.—(1) The Minister may direct that an inquiry under Section 203 of this Act shall be held in camera.

Minister may direct inquiries to be held in camera.

(2) Where no direction has been given, the person holding the inquiry may, if the thinks fit, hold it or any part of it, in private.

201.—(1) The Minister may, with the necessary consent, defray or contribute towards—

Financial support by Minister.

(a) any fees or expenses incurred by a person undergoing approved child care training ;

(b) any fees charged and expenses incurred, by a person providing approved child care training or preparing material for use in connection with the training ; and

(c) the cost of maintaining a person undergoing approved child care training.

(2) The Minister may make grants to a State Government in respect of any secure accommodation ; but if the grant is not used for the purpose for which it was made or the accommodation is not used as, or ceases to be used as, secure accommodation, the Minister may, require the State Government concerned to repay the grant, in whole or in part.

(3) The Minister may make grants to a voluntary organisation towards—

(a) expenditure incurred by it in connection with the establishment, maintenance or improvement of voluntary homes which, at the time when the expenditure was incurred—

(i) were assisted community homes, or

(ii) were designated as assisted community homes ;

(b) expenses incurred in respect of the borrowing of money to defray any of those expenditure.

(4) The Minister may arrange for the provision, equipment and maintenance of homes for the accommodation of children who are in need of particular facilities and services which—

(a) are or will be provided in those homes ; and

(b) in the opinion of the Minister, are unlikely to be readily available in community homes.

(5) Any grant made under this section shall be of such amount, and shall be subject to such conditions, as the Minister may determine.

202.—(1) The Minister may conduct, or assist other persons in conducting research into any matter connected with his functions or the function of State Governments under this Act, including—

Research and returns of information.

(a) adoption ; and

(b) the accommodation of children in a residential care home, nursing home or mental nursing home.

(2) A State Government may conduct, or assist other persons in conducting, research into any matter connected with its functions under the enactments mentioned in Subsection (7) of this section.

(3) Every State Government shall, at such times and in such form as the Minister may direct, transmit to the Minister such particulars as he may require with respect to—

(a) the performance by the State Government of all or any of its functions—

(i) under this Act, or

(ii) in connection with the accommodation of children in a residential care home, nursing home or mental nursing home ; and

(b) the children in relation to whom the State Government has exercised the functions referred to in paragraph (a) of this subsection.

(4) Every voluntary organisation shall, at such times and in such form as the Minister may direct, transmit to the Minister such particulars as he may require with respect to children accommodated by it or in its behalf.

(5) The Minister may institute research designed to provide information on which requests for information under this section may be based.

(6) The Minister shall keep under review the adequacy of the provision of child care training and for that purpose shall receive and consider any information from or representations made by—

(a) the National Council for Education and Training in Social Work ; and

(b) the National Council of the appropriate authority responsible for matters relating to children ;

(c) such other persons or organisations as may appear to him to be appropriate, concerning the provision of such training.

(7) The enactments referred to in Subsection (2) of this section are—

(a) this Act ;

(b) the Codes of Criminal Law and Procedure ; and

(c) the relevant legislation on mental health relating to children cared for by appropriate State authorities.

Power of
Minister to
declare State
Government,
etc. to be
default.

203.—(1) If the Minister is satisfied that a State Government, or an appropriate authority has failed, without reasonable excuse, to comply with any of the duties imposed on it by or under this Act, the Minister may make an order declaring that State Government or authority to be in default with respect to that duty.

(2) An order under Subsection (1) of this section shall state the Minister's reasons for making it.

(3) An order under Subsection (1) of this section may contain such direction for the purpose of ensuring that the duty is complied with, within such period as may be specified in the order, as appears to the Minister to be necessary.

(4) Any direction given by the Minister under Subsection (3) of this section shall, on the application of the Minister, be enforceable by an order of mandamus.

PART XX—CHILD JUSTICE ADMINISTRATION

GENERAL

204. No child shall be subjected to the criminal justice process or to criminal sanctions, but a child alleged to have committed an act which would constitute a criminal offence if he were an adult shall be subjected only to the child justice system and processes set out in this Act.

Child to be subjected to only child justice system and processes.
Protection of privacy.

205.—(1) The right of the child to privacy specified in section 8 of this Act shall be respected at all stages of child justice administration in order to avoid harm being caused to the child by undue publicity or by the process of labeling.

(2) Accordingly, no information that may lead to the identification of a child offender shall be published.

(3) Records of a child offender shall—

(a) be kept strictly confidential and closed to third parties ;

(b) made accessible only to persons directly concerned with the disposition of the case at hand or other duly authorised persons ; and

(c) not be used in adult proceedings in subsequent cases involving the same child offender.

206.—(1) Professional education, in-service training, refresher courses and other appropriate mode of instructions shall be utilised to establish and maintain the necessary professional competence of all persons, including Judges, Magistrates, officers of the Specialised Children Police Unit, supervisors and child development officers, dealing with child offenders.

Professional education and training.

(2) Every Judge, Magistrate and other judicial officer, appointed to the Court shall be trained in sociology and behavioural sciences to ensure effective administration of the child justice system.

(3) Persons employed in the child justice system shall reflect the diversity of children who come into contact with the child justice system and efforts shall be made by those concerned with the appointment of those persons to ensure the fair representation of women and minorities in the appointment.

(4) Subject to Subsection (2) of this section, political, social, sexual, racial, religious, cultural or any other kind of discrimination in the selection, appointment

and promotion of persons employed in the child justice system shall be avoided in order to achieve impartiality in the administration of the child justice system.

Specialisation within the Nigeria Police Force.

207.—(1) There shall be established, in the Nigeria Police Force, a specialised unit of the Force, to be known as the Specialised Children Police Unit (in this Act referred to as the "Unit") which shall consist of police officers who—

- (a) frequently or exclusively deal with children ; or
- (b) are primarily engaged in the prevention of child offences.

(2) The Unit shall be charged with the following functions, that is—

- (a) the prevention and control of child offences ;
- (b) the apprehension of child offenders ;
- (c) the investigation of child offences ; and

(d) such other functions as may be referred to the Unit by this Act or by regulations made under this Act or by any other enactment.

(3) Members of the Unit shall be continually trained and instructed specially for the functions conferred on the Unit under subsection (2) of this section.

Use of direction.

208.—(1) In view of the varying special needs of children and the variety of measures available, a person who makes determination on child offenders shall exercise such discretion, as he deems most appropriate in each case, at all stages of the proceedings and at the different levels of child justice administration, including investigation, prosecution, adjudication and the follow-up of dispositions.

(2) Every person who exercises discretion shall be specially qualified or trained to exercise the discretion judiciously and in accordance with his functions and powers.

Disposal of case without resort to formal trial.

209.—(1) The police, prosecutor or any other person dealing with a case involving a child offender shall—

(a) Have the power to dispose of the case without resorting to formal trial by using other means of settlement, including supervision, guidance, restitution and compensation of victims ; and

(b) encourage the parties involved in the case to settle the case, as provided in paragraph (a) of this section.

(2) The police, prosecutor or other person referred to in subsection (1) of this section may exercise the power conferred under that Subsection if the offence involved is of a non-serious nature and—

- (a) there is need for reconciliation ; or
- (b) the family, the school or other institution involved has reacted or is likely to react in an appropriate or constructive manner ; or
- (c) where, in any other circumstance, the police, prosecutor or other person

deems it necessary or appropriate in the interest of the child offender and parties involved to exercise the power.

(3) Police investigation and adjudication before the court shall be used only as measures of last resort.

210. The legal status and fundamental rights of the child, set out in Part II of this Act, and in particular—

Report of the legal status and rights of the child.

- (a) the presumption of innocence ;
- (b) the right to be notified of the charges ;
- (c) the right to remain silent ;
- (d) the right to the presence of a parent or guardian ;
- (e) the right to legal representation and free legal aid, shall be respected in the administration of the child justice system set out in this Act.

INVESTIGATION

211.—(1) On the apprehension of a child—

Initial contact with the child.

- (a) the parents or guardian of the child shall—
 - (i) be immediately notified, or
 - (ii) where immediate notification is not possible, be notified within the shortest time possible after the apprehension, of the apprehension ;
- (b) the Court or police, as the case may be, shall, without delay, consider the issue of release ;
- (c) contracts between the police and the child shall be managed in such a way as to—
 - (i) respect the legal status of the child,
 - (ii) promote the best interest and well-being of the child,
 - (iii) avoid harm to the child, having due regard to the situation of the child and the circumstances of the case.

(2) In this section—

“harm” includes the use of harsh language, physical violence, exposure to the environment and any consequential physical, psychological or emotional injury or hurt.

212.—(1) Detention pending trial shall—

Detention pending trial.

- (a) be used only as a measure of last resort and for the shortest possible period of time ;
- (b) wherever possible, be replaced by alternative measures, including close

supervision, care by and placement with a family or in an educational setting or home.

(2) While in detention, a child shall be given care, protection and all necessary individual assistance, including social, educational, vocational, psychological, medical and physical assistance, that he may require having regard to his age, sex and personality.

(3) Where the Court authorises an apprehended child to be kept in police detention, the Court shall, unless it certifies—

(a) that, by reason of such circumstances as specified in the certificate, it is impracticable for him to do so ; or

(b) in the case of an apprehended child who has attained the age of fifteen years, that no secure accommodation is available and that keeping him in some other authority's accommodation would not be adequate to protect the public from serious harm from the child, secure that the apprehended child is moved to a State Government accommodation.

(4) Classification in the place of detention pending trial shall take account of the social, educational, medical and physical characteristics and condition of the child, including his age, sex and personality.

ADJUDICATION

Jurisdiction
of Court to
try child
offenders.

213.—(1) A child who is accused of having committed an act such as is contemplated in Section 209 of this Act shall be tried in the Court.

(2) The terms "conviction" and "sentence" shall not be used in relation to a child dealt with in the Court and any reference in any enactment or other law to a person convicted, a conviction or a sentence shall, in the case of a child, be construed as including a reference to a person found guilty of an offence, or to a finding of guilt or to an order made upon such a finding, as the case may be.

Rights to fair
hearing and
compliance
with due
process.

214.—(1) In the trial of a child under this Act, the observance of his rights to fair hearing, and compliance with due process shall be observed.

(2) The procedures established by the child justice system under this Act shall, in relation to the trial of the child offender, as during the initial contact with the child under Section 216 of this Act—

(a) respect the legal status of the child ;

(b) promote the best interest and well being of the child ; and

(c) avoid harm to the child, having due regard to the situation of the child and the circumstances of the case.

Guiding
principles in
adjudication.

215.—(1) Where a child offender is brought before the Court, the court shall ensure that—

(a) the proceedings is conducive to the best interests of the child and is conducted in an atmosphere of understanding which allows the child to participate

therein and express himself freely ;

(b) the reaction taken is always in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and needs of the child and the needs of the society ;

(c) the personal liberty of the child is restricted only after careful consideration of the case, including the use of alternative methods of dealing with the child, and the restriction is limited to the possible minimum ;

(d) the child is not deprived of his personal liberty unless he is found guilty of—

(i) a serious offence involving violence against another person, or

(ii) persistence in committing other serious offences, and there is no other appropriate response that will protect the public safety ;—

(e) the well-being of the child is the guiding factor in the consideration of his case.

(2) The Court has the power to discontinue any proceedings at any time if circumstances arise which make discontinuation of the proceedings the best way to dispose of the case.

(3) The Court shall handle each case brought before it expeditiously without unnecessary delay.

216.—(1) The parents or guardian of a child offender who is charged before the Court for an act which constitutes a criminal offence, shall attend all stages of the proceedings and shall be entitled to participate in the proceedings.

Parents,
Guardians to
attend Court.

(2) The Court may, where necessary, make an order to enforce the attendance of a parent or guardian before it.

(3) Notwithstanding subsection (1) of this section, where in the opinion of the Court, it is not in the interest of a child that his parent or guardian should attend, the Court shall, by order, exclude the parent or guardian from so attending.

217.—(1) Where a child is brought before the Court, the Court shall, as soon as possible, explain to him and his parents or guardian in a language the child and the child's parent or guardian understands, the substance of the alleged offence.

Child justice
procedure in
Court.

(2) Subject to the provisions of section 152 (4) (b) (i) of this Act, where a child is brought before the Court for an offence, the case shall be finally disposed of in the Court, and it shall not be necessary to ask the parent or guardian of the child whether he consents that the child be dealt with in the Court.

(3) If the child does not admit the facts of an alleged offence, the Court shall proceed to hear the evidence of the witnesses in support of the facts and at the close of the evidence of each witness, the Court shall ask the child or if the Court sees fit, the parent or guardian of the child, whether he or she wishes to put any questions to

the witnesses.

(4) If the child, instead of asking questions, wishes to make a statement, the child shall be allowed to do so and it shall be the duty of the Court to put to the witnesses such of the questions as appear to be necessary and the Court may put to the child such questions as may be necessary to explain anything in the statement of the child.

(5) If it appears to the Court that a *prima facie* case is made out against the child, the evidence of the witnesses for the defence shall be heard, and the child shall be allowed to give evidence or to make any statement.

(6) If a child admits the offence or the Court is satisfied that the offence is proved, the Court shall then ask the child if he desires to say anything in explanation of the reason or reasons for his conduct, and, before deciding on how to deal with him, the Court—

(a) shall obtain such information as to his general conduct, home surroundings, school record, including the social inquiry reports referred to in section 224 of this Act and medical history, as may enable it deal with the case in the best interests of the child ; and

(b) may put to the child any question arising out of such information.

(7) For the purposes of obtaining an information under subsection (6) of this section or for special medical examination or observation, the Court may from time to time, remand the child on bail or to a place of detention.

(8) If a child admits the offence or the Court is satisfied that the offence is proved, and the Court decides that a remand is necessary for purposes of inquiry or observation, the Court may cause an entry to be made in the Court records that the charge is proved and that the child has been remanded for enquiry or observation.

(9) The Court before which a child who has been remanded is brought may, without further proof of the Commission of the offence, make any order in respect of the child which could have been made by the Court which remanded the child.

Remands and
commitments to
State
Government
accommoda-
tion.

218.—(1) Where the Court does not release on bail a child who admits to committing one or more offences charged against him, the Court shall remand the child to a State Government accommodation.

(2) A Court remanding a child to a State Government accommodation shall designate the authority which is to receive him and that State Government shall—

(a) in the case of a child who is already being looked after by a State Government, be that State Government ; and

(b) in any other case, be the Government of the State within which it appears to the Court that the child resides or in which the offence or one of the offences was

committed.

(3) Where a child is remanded to a State Government accommodation, it shall be lawful for any person acting on behalf of the designated State to detain him.

(4) Subject to subsection (5) of this section, the Court remanding a child to a State Government accommodation may, after consultation with the designated State Government, require that the State Government complies with a security requirement, which is that the person in question be placed and kept in secure accommodation.

(5) A Court shall not impose a security requirement except in respect of a child who has attained the age of fifteen years, and then only if—

(a) he is charged with or has been found to have committed a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more ; or

(b) he has a recent history of absconding while remanded to a State Government accommodation, and is charged with or has been found to have committed an offence punishable with imprisonment while he was so remanded ; and

(c) the Court is of the opinion that only such a requirement would be adequate to protect the public from serious harm from the child.

(6) Where a Court imposes a security requirement in respect of a child, it shall—

(a) state that if is of such opinion as is mentioned in subsection (5) of this section ; and

(b) explain to the child in ordinary language the reason the Court is of that opinion, and the Court shall cause a reason stated by it under paragraph (b) of this subsection to be specified in the warrant of commitment and to be entered in the Court register.

(7) A Court remanding a child to a State Government accommodation without imposing a security requirement may, after consultation with the designated State Government, require that the child complies with any such conditions as could be imposed if he were being granted bail.

(8) Where a Court imposes on a child any condition as is mentioned in subsection (7) of this section, it shall explain to the child in ordinary language the reason it is imposing the condition, and the Court shall cause a reason stated by it under this subsection to be specified in the warrant of commitment and to be entered in the Court register.

(9) A Court remanding a child to a State Government accommodation without imposing a security requirement may, after consultation with the designated State Government, impose on that State Government requirements—

(a) for securing compliance with any condition imposed on that person under subsection (7) of this section ; or

(b) stipulating that he shall not be placed with a named person.

(10) Where a child is remanded to a State Government accommodation, the Court may—

(a) on the application of the designated State Government, impose on that child any condition as could be imposed under subsection (7) of this section, as if the Court were then remanding him to such accommodation ; and

(b) impose on that State Government any requirement for securing compliance with the condition so imposed.

(11) Where a child is remanded to a State Government accommodation, the Court may, on the application of the designated State Government vary or revoke any condition or requirement imposed under subsections (7), (9) or (10) of this section.

Social inquiry
report

219.—(1) The appropriate officers shall, before a case, other than that involving a minor offence, is finally disposed of by the Court—

(a) properly investigate—

(i) the background of the child,

(ii) the circumstances in which the child is living, and

(iii) the conditions under which the offence has been committed ;

(b) inform the Court of all relevant facts, relating to the child, including his social and family background, school career and educational experience, arising out of the investigation under paragraph (a) of this subsection.

Power of
Court to
order parent
or guardian to
pay fine, etc.

220.—(1) Where a child is charged before the Court with an offence and the Court decides that the case would be best disposed of by the imposition of a fine, damages, compensation or costs, whether with or without any other measure, the Court shall order that the fine, damages, compensation or costs awarded be paid by the parent or guardian of the child instead of the child, unless the Court is satisfied that—

(a) the parent or guardian of the child cannot be found ; or

(b) the parent or guardian has not condoned to the commission of the offence by neglecting to exercise due care, guidance of and control over the child.

(2) Where a child is charged with an offence, the Court may order his parent or guardian to give security for his good behaviour.

(3) Where the Court thinks that a charge against a child is proved, the Court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to find that the child committed the act.

(4) An order under this section may be made by the Court against a parent or guardian who, having been required to attend the Court failed to do so, but no such order shall be made without the Court giving the parent or guardian an opportunity of being heard.

(5) A sum imposed and ordered to be paid by a parent or guardian under this section, or any forfeiture or any security as given under this section, may be recovered from the parent or guardian by distress in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child was charged.

(6) A parent or guardian may appeal against an order under this section to the Court at the High Court level or the Court of Appeal, as the case may be.

221.—(1) No child shall be ordered to be—

Restriction
on
punishment.

(a) imprisoned ; or

(b) subjected to corporal punishment ; or

(c) subjected to the death penalty or have the death penalty recorded against him.

(2) No expectant mother or nursing mother shall be subjected to the death penalty or have the death penalty recorded against her.

(3) A court shall, on sentencing an expectant or a nursing mother, consider the imposition of a non-institutional sentence as an alternative measure to imprisonment.

(4) Where institutional sentence is mandatory or desirable, an expectant or a nursing mother shall be committed to and be held or detained at a Special Mothers Centre.

(5) No mother and child shall be held or detained at a Special Mothers Centre for a period longer than the time the child would have attained the age of six years.

(6) Where—

(a) a mother is released from a Special Mothers Centre due to the age of her child being six years before she has completed her sentence ; or

(b) a child dies while with the mother at a Special Mothers Centre, the mother shall be brought before the court which passed the original sentence to review the case and deal with her as appropriate, having regard to all the circumstances of the case.

(7) Where a mother is further given a sentence of imprisonment as a result of a review under subsection (6) of this section, the child shall be treated as a child in need for purposes of section 178 of this Act and may be committed to the care of either—

(a) his father ; or

(b) a fit and proper person, by a commital order.

Detention in
case of
certain
crimes.

222.—(1) Notwithstanding anything in this Act to the contrary, where a child is found to have attempted to commit treason, murder, robbery or manslaughter, or wounded another person with intent to do grievous harm, the Court may order the child to be detained for such period as may be specified in the order.

(2) Where an order is made under subsection (1) of this section, the child shall, during that period, notwithstanding anything in the other provisions of this Act, be liable to be detained in such place and on such conditions as the Court may direct, and the child whilst so detained shall be deemed to be in legal custody.

Methods of
dealing with
child offender.

223.—(1) Where a child charged with an offence is tried by a Court and the Court is satisfied that the child actually committed the offence, the Court shall take into consideration the manner in which, under the provisions of this Act, the case should be dealt with, namely, by—

(a) dismissing the charge ; or

(b) discharging the child offender on his entering into a recognisance ; or

(c) placing the child under care order, guidance order and supervision order, including—

(i) discharging the child offender and placing him under the supervision of a supervision officer, or

(ii) committing the child offender by means of a corrective order to the care of a guardian and supervision of a relative or any other fit person, or

(iii) sending the child offender by means of a corrective order to an approved accommodation or approved institution, or

(d) ordering the child offender to—

(i) participate in group counseling and similar activities,

(ii) pay a fine, damages, compensation or costs, or

(iii) undertake community service under supervision ; or

(e) ordering the parent or guardian of the child offender to—

(i) pay a fine, damages, compensation or costs, or

(ii) give security of his good behaviour, or

(iii) enter into a recognisance to take proper care of him and exercise proper control over him ; or

(f) committing the child offender to custody in place of detention provided under this Act ; or

(g) making a hospital order or an order prescribing some other form of intermediate treatment ; or

(h) making an order concerning foster care, guardianship, living in a community or other educational setting ; or

(i) dealing with the case in any other manner in which it may be legally dealt with under this Act.

(2) The placement of a child in an approved accommodation or Government institution shall—

(a) be a disposition of last resort ; and

(b) not be ordered unless there is no other way of dealing with the child, and the Court shall state, in writing, the reason or reasons for making the order.

(3) Where an order under this section is made by the Court, the order shall, for the purpose of—

(a) reverting or restoring stolen property ; and

(b) enabling the Court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with the restitution or delivery, have the like effect as a restitution order upon a conviction of an adult offender, subject however to any protection provided for the child offender under this Act.

(4) A court shall not make an institutional order in respect of a child unless it is satisfied that there is a vacancy in the approved institution to which it intends to commit the child.

(5) An approved institution may refuse to accept or admit a child where there is no vacancy in the institution for the child notwithstanding an order of a Court committing the child to that institution.

224.—(1) Every State Government shall secure that it is in a position to comply with any security requirement which may be imposed on it under this Act.

Government
to provide
accommoda-
tion.

(2) A State Government may discharge its duty under subsection (1) of this section by providing secure accommodation itself or making arrangements with any other authority or State Government for the provision of the accommodation.

(3) The Minister may by regulations make provision as to the co-operation required of State Governments in the provision of secure accommodation.

225.—(1) If the Court before which an offender is bound by his recognisance to appear to be further dealt with, is satisfied by information on oath that the child offender has failed to observe any of the conditions of his recognisance, it may issue—

Procedure on
failure to
observe
condition of
recognisance.

(a) a warrant for the apprehension of the child ; or

(b) a summons to the child and his sureties, if any, requiring him and them to be present at the Court and at such time as may be specified in the summons.

(2) A child offender, when apprehended, shall, if not brought forthwith before the Court before which he is bound by his recognisance to appear to be further dealt with, be brought before another Court.

(3) The Court before which a child offender on apprehension is brought, or before which he appears in pursuance of a summons, may, if it is not the Court in which the child offender is bound by his recognisance to appear to be further dealt with, remand him in custody or on bail until he can be brought before the Court in which he is bound by his recognisance to appear.

(4) The Court before which a child is bound by his recognisance to appear to be further dealt with shall, on being satisfied that the child has failed to observe any condition of his recognisance, forthwith without any further proof of his having violated the law or otherwise, deal with him as for the original offence.

Binding over
of a parent or
guardain.

226.—(1) Where a child is found to have committed an offence, the powers conferred by this section shall be exercisable by the Court before which the case is brought, and the Court shall—

(a) exercise those powers if it is satisfied, having regard to the circumstances of the case, that their exercise would be desirable in the interest of preventing the commission by the child of any further offence ; and

(b) where it does not exercise those powers, state that it is not satisfied as mentioned in paragraph (a) of this Subsection and why it is not so satisfied.

(2) The powers conferred by this section on the Court are as follows—

(a) with the consent of the parent or guardian of the child, to order the parent or guardian to enter into a recognisance to take proper care of the child and exercise proper control over the child ; and

(b) if the parent or guardian of the child refuses to give consent and the Court considers the refusal unreasonable, to order the parent or guardian to pay a fine not exceeding ten thousand naira.

(3) An order under this section shall not require the parent or guardian to enter into a recognisance—

(a) for an amount exceeding thirty thousand naira ; or

(b) for a period exceeding three years or, where the child will attain the age of eighteen years in a period shorter than three years, for a period not exceeding that shorter period.

(4) The court has the power to declare the recognisance entered into by virtue of Subsection (2) of this section to be forfeited, and adjudge the parent or guardian of the child to pay the whole sum in which is bound or part of the sum and the payment of the

sum so adjudged to be forfeited shall be enforced by means of a warrant of distress to be levied against the property of the parent or guardian.

(5) Section 225 of this Act shall apply for the purposes of subsection (2) (b) of this section as if the refusal to enter into a recognisance were a summary offence punishable by a fine not exceeding ten thousand Naira, and a fine imposed under that subsection shall be deemed for the purpose of any enactment to be a sum adjudged to be paid by virtue of a conviction.

(6) In fixing the amount of a recognisance under this section, the Court shall take into account, among other things, the means of the parent or guardian of the child so far as they appear or are known to the Court and this subsection applies whether or not taking into account the means of the parent or guardian has the effect of increasing or reducing the amount of the recognisance.

(7) A parent or guardian may appear to—

(a) the Court at the High Court level against an order under this section made by the Court at the magistrate level ; and

(b) the Court of Appeal against an order under this section made by the Court at the High Court level.

(8) A Court may vary or revoke an order made by it under this section if, on the application of the parent or guardian, it appears to the Court, having regard to any change in the circumstances since the order was made, to be in the interest of justice to do so.

227.—(1) A corrective order under this Act shall be in such form as may be prescribed.

Forms for
corrective
orders.

(2) One copy of the corrective order, duly completed, shall be kept by the Court which issued the corrective order the second copy shall be sent to the appropriate State Commissioner and the third copy shall be sent with the child named in it to the approved institution to which or the person to whom the child is to be sent under the corrective order.

228. The operation of a correction order may be—

(a) suspended pending completion of arrangements for the reception of the child into an approved institution ; or

(b) on account of ill-health of the child ; or

(c) for any other good and sufficient reasons, and in such case, the Court may remand him in custody or may order him to be committed to the care of some fit and proper person willing to undertake his custody, or may release him on bail.

Operation of
corrective
order may be
suspended.

229.—(1) The Court which issued a corrective order may—

(a) if it is satisfied that the corrective order is about to expire and that the child would benefit by further care or training, extend the period of the corrective order

Power to
vary
corrective
order in
certain cases.

subject to the provisions of this Act ;

(b) order a child—

(i) whose period of detention has exceeded twelve months to be discharged,

(ii) to be released from an approved institution on condition that the child shall be of good behaviour and live under the charge of any trustworthy and respectable person named in the order of release who is willing to receive and take charge of the child and keep the child at school or employed at some trade, occupation or calling,

(iii) to be released from one approved institution or person to another institution or person.

(2) An order made under this section may, in the discretion of the Court making the order, be revoked and thereupon the original corrective order shall remain in full force and effect.

Power of manager of an approved institution to grant leave of absence to a child in detention.

230.—(1) At any time during the period of a child's detention in an approved institution, the manager of the approved institution may grant leave to the child to be absent from the approved institution and the manager may, at any time, require him to return to the approved institution.

(2) During the period of leave granted a child under subsection (1) of this section, the child shall, for the purposes of this Act, be deemed to be under the care of the manager of the approved institution and the manager may, at any time, require him to return to the approved institution.

Apprehension without warrant.

231. A child shall, whilst he is detained in or on leave from an approved institution in accordance with the provisions of this Act and also being conveyed to or from the institution, be deemed to be in legal custody and, if the child escapes, he may be apprehended without warrant and brought back to the approved institution.

Procedure in case of unruly or depraved person.

232. If the manager of an approved institution is satisfied that a child committed to the approved institutions is of so unruly or depraved a character that it is undesirable that for the child to remain at that institution, he may cause the child to be brought before—

(a) the Court which made the committal order, and that court may make such further order which it has power to make under this Act ; or

(b) the Court having jurisdiction in the place where the institution is situated, and the Court may, in respect of the child, make an order or further order which could have been legally made by the Court which made the committal order under the provisions of this Act.

NON-INSTITUTIONAL TREATMENT

Effective implementation of non institutional orders.

233.—(1) The Federal or State Director responsible for child matters shall—

(a) have the responsibility for ensuring the implementation of every non-institutional order of the Court ; and

(b) make quarterly reports to the Court having jurisdiction in the area on how the order is to be implemented, on the progress of the implementation of the non-institutional order, including the response of the child offender to the treatment specified in the order.

(2) The Court to which a report is made under Subsection (1) of this section has the power to modify the non-institutional order, from time to time, as it deems fit, having regard to the circumstances of the case.

234. A child in respect of whom an order referred to in section 227 of this Act is made, shall be provided, where appropriate, with necessary assistance, including accommodation, education or vocational training, employment and any other helpful and practical assistance, during the period the order is in force.

Assistance
during
rehabilitation.

235. Voluntary and other organisations and agencies, individuals and communities shall be encouraged by the Government Departments and agencies responsible for child welfare to contribute effectively to the rehabilitation and development programmes for child offenders.

Mobilisation
of voluntary
service.

INSTITUTIONAL TREATMENT

236.—(1) The objective of training and treatment of a child offender placed in an institution shall be to provide care, protection, education and vocational skill with a view to assisting the child to assume socially constructive and productive roles in the society.

Objective of
institutional
treatment.

(2) A child offender in an institution shall be given care, protection and all necessary assistance, including social, educational, vocational, psychological, medical and physical assistance, that he may require, having regard to his age, sex, personality and in the interest of his development.

(3) A female child offender placed in an institution shall—

(a) be treated fairly ;

(b) receive no less care, protection, assistance, treatment and training than a male child ; and

(c) be given special attention as to be her personal needs and problems.

(4) The parents and guardian of a child offender placed in an institution shall have the right to access to the child in the interest and well-being of the child.

(5) Inter-Ministerial and Inter-Departmental co-operation shall be encouraged for the purpose of providing adequate academic or vocational training for any child offender placed in an institution or ensure that the child does not leave the institution at an educational disadvantage.

237.—(1) The Court shall use conditional release from an institution to the greatest possible extent and grant it at the earlier possible time.

Recourse of
conditional
release.

(2) A child granted a conditional release from an institution shall be assisted and supervised as provided under Part XXI of this Act.

RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION

Research as a basis for planning, policy formulation, etc.

238.—(1) Without prejudice to section 207 of this Act, the Federal and every State Government shall—

(a) organise and promote necessary research as a basis for effective planning and policy formulation on child justice administration ;

(b) review and appraise periodically the trends, problem and causes of child delinquency and crime and the varying particular needs of children in custody ;

(c) establish a regular evaluation research mechanism built into the child justice administration system ;

(d) collect and analyse relevant data and information for appropriate assessment and future improvement and reform of the child justice administration system ; and

(e) systematically plan and implement, as an integral part of national development efforts, the delivery of services in child justice administration.

PART XXI—SUPERVISION

Appointment of supervision officer.

239.—(1) The appropriate Commissioner of a State may appoint—

(a) fit and proper persons by name of ex-officio to be supervision officers for such areas as may be specified in each letter of appointment ;

(b) deputy supervision officers to assist and also act in the absence or during the illness or incapacity of supervision officers ; and

(c) assistant supervision officers to assist supervision officers in the performance of their functions.

(2) A supervision officer shall, when acting under a supervision order, be subject to the control of the Court in the State in which he is appointed.

Supervision inspectors and supervision inspection service.

240.—(1) The Commissioner may appoint such number of supervision inspectors, as he may, with the approval of the Governor of the State, determine for all purposes of this Part of this Act.

(2) The supervision inspectors appointed under subsection (1) of this section, together with the supervision officers appointed under section 243 of this Act, shall constitute the State Supervision Inspection Service (in this Part of this Act referred to as “the Supervision Service”).

(3) The Commissioner shall appoint one of the supervision inspectors to be the Chief Supervision Inspector of the Supervision Service.

(4) The supervision inspector shall—

(a) inspect and report to the Commissioner on the activities of Supervision

Service and the activities carried out by or on behalf of Supervision Service ; and

(b) discharge such other functions in connection with the provision of supervision or related service, whether or not provided by or on behalf of the Supervision Service for any area, as the Commission may, from time to time, direct.

(5) The Commissioner shall make to or in respect of supervision inspectors such payments by way of remuneration, allowances or otherwise as he may, with the approval of the Governor, determine.

241.—(1) The Commissioner may make an order under this section if he is of the opinion that, without reasonable excuse, the Supervision Service—

(a) has failed to discharge any of its duties under this Act or any other enactment ; or

(b) has so failed and is likely to do so again.

(2) An order under subsection (1) of this section shall—

(a) state that the Commissioner is of the opinion referred to in subsection (1) of this section : and

(b) make such provision as is considered requisite for the purpose of securing that the duty is properly discharged by the Supervision Service.

(3) The Supervision Service shall comply with the provisions of any order made under subsection (1) of this section.

242.—(1) Where a child is charged with an offence, other than homicide, and the Court is satisfied that the charge is proved, the Court may make an order discharging the child offender conditionally on his entering into recognisance, with or without sureties to —

(a) be of good behaviour ; and

(b) appear to be further dealt with when called upon at any time during such period, not exceeding three years, as may be specified in the order.

(2) A recognisance entered into under subsection (1) of this section shall, if the Court so orders, contain —

(a) a condition that the child offender be under the supervision of person as may be named in the order during the period specified in the order ; and

(b) such other conditions for securing such supervision as may be specified in the order.

(3) An order containing a condition that a child offender be under supervision in his recognisance shall in this Act be referred to as a supervision order.

243. The person named in supervision order shall be —

(a) a supervision officer appointed by the appropriate Commissioner of the

Default power where the supervision service fails to discharge its statutory duty.

Power of Court to make conditional discharge order and supervision order.

Person named in supervision order.

State in or for which the Court acts ; or

(b) if the Court considers it expedient on account of the place of residence of the offender or for any other special reason, a supervision officer appointed by the Commissioner of some other State ; or

(c) if the Court considers that the special circumstances of the case render it desirable, or if no person has been appointed supervision officer, any other person who has not been appointed supervision officer for any State.

Supervision officer may be relieved of duties.

244. The person named in a supervision order may at any time be relieved of his duties as specified in Section 250 of this Act, and where the person is relieved of his duties or he dies, another person may be substituted by the Court before which the offender is bound by his recognisance to appear to be further dealt with.

Duties of supervision officer.

245. A supervision officer shall, subject to the discretion of the Court —

(a) visit or receive reports from the child under supervision at such reasonable intervals as may be specified in the supervision order or, subject thereto, as the supervision officer may think fit ;

(b) see that the child observes the conditions of his recognisance ;

(c) make a report to the Court on the behaviour of the child ; and

(d) advise, assist and befriend the child and, when necessary, endeavour to find the child suitable employment.

Power of Court to vary suspension order.

246. The Court before which a child is bound by his recognisance under this Act to appear to be further dealt with may, on the application of the supervision officer, and after notice to the child offender, vary the conditions of the recognisance and may, on being satisfied that the conduct of that child has been such as to make it necessary that he should remain under supervision, discharge the recognisance.

PART XXII—APPROVED INSTITUTIONS AND POST-RELEASE SUPERVISION, ETC.

Approved institutions.

247. Approved Institutions consist of approved children institutions and Special Mothers Centres, all of which shall be established as provided in this Part of this Act.

Establishment of approved institutions.

248.—(1) The Minister shall —

(a) establish, in any part of the Federation, or any part of a State, the following institutions to be known as approved children institutions—

(i) a Children Attendance Centre,

(ii) a Children Centre,

(iii) a Children Residential Centre,

(iv) a Children Correctional Centre,

(v) a Special Children Correction Centre, and

(vi) such other institutions as the Minister may, from time to time, establish ; and

(b) make rules for the management upkeep and inspection of the approved children institutions.

(2) The Minister responsible for matters relating to women shall—

(a) establish in any part of the Federation institutions to be known as Special Mothers Centres ; and

(b) make rules for the management, upkeep and inspection of the Special Mothers Centres.

(3) The supplementary provisions contained in the Eleventh Schedules to this Act shall have effect with respect to approved institutions established by the appropriate Minister under subsection (1) and 2) of this section.

Eleventh
Schedule.

249.—(1) The Minister may by order declare any building, place or land within the Federation or a State, as the case may be to be —

Declaration
of building,
etc. as an
approved
institution.

(a) a Children Attendance Centre ;

(b) a Children Centre ;

(c) a Children Residential Centre ;

(d) a Children Correction Centre ;

(e) an Emergency Protection Centre ;

(f) a Special Children Correctional Centre ; or

(g) such other children institutions as may be established by the Minister.

(2) The Minister responsible for matters relating to women may by order declare any building, place or land within the Federation or a State, to be a Special Mothers Centre.

250.—(1) A Children Attendance Centre shall be a non-residential place at which children shall —

Children
attendance
centres, etc.

(a) attend, on a daily basis or on such days only as may be prescribed, on the order of the Court which dealt with the case of the child concerned ; and

(2) A Children Centre shall be a place for the detention of children who are remanded in or committed to custody for trial or for the making of a disposition order after trial, or awaiting adoption or fostering.

(3) A Children Residential Centre shall be a place in which child offenders may be detained and given regular school education and such other training and instructions as may be conducive to their reformation and re-socialisation and the removal or reduction, of their tendency to commit anti-social act and such other acts which violate the criminal law.

(4) A Children Correctional Centre shall be a place in which child offenders may be detained and given such training and instructions as will be conducive to their

formation and re-socialisation, and the removal or reduction, in term, of their tendency to commit anti-social acts and such other acts which violate the criminal law.

(5) An Emergency Protection Centre shall be a place in which a child taken into police protection or in respect of whom an emergency protection order is made shall be accommodated until the expiration of the order.

(6) A Special Children Correction Centre shall be a place to which children, who are found to be incorrigible or to be exercising bad influence on other inmates detained in a Children Correctional Centre may be detained.

(7) A Special Mothers Centre shall be a place in which expectant and nursing mothers are held for purposes of remand, re-socialisation and rehabilitation in the society in an atmosphere devoid of the regime of institutional confinement which may be damaging for the proper development of their children.

(8) The appropriate Minister may, by regulations, prescribe or provide for —

(a) the regulation and governance of the approved institutions ;

(b) the appointment, powers, duties, conduct and disciplinary control of the officers and other persons employed in approved institutions ;

(c) the functions and duties of visitors, visiting committees and voluntary visitors to approved institutions ;

(d) the classification, treatment, diet, clothing, maintenance, employment, discharge, discipline, instruction and control of inmates of approved institutions ;

(e) the release of inmates on parole ;

(f) the establishment of after-care associations, for the welfare and reformation of children discharged from approved institutions ;

(g) the form in which any order shall be made ; and

(h) such other matters as are required for the better carrying out of the purposes of this section.

Responsibilities for approved institutions. Officers of approved institutions.

251.—(1) The Federal Director responsible for child development in the Ministry or such other officer as the Minister may designate, shall have the general charge and superintendence of all Federal approved children institutions in Nigeria.

(2) A State Director responsible for child development in the appropriate Ministry or such other officers as the Commissioner may designate, shall have the general charge and superintendence of all approved children institution within the State.

(3) The Comptroller-General of Prisons shall have the general charge and superintendence of all approved youth institutions in all parts of the Federation.

Officers of approved institutions.

252.—(1) Children development officers shall be appointed to carry out duties in relation to approved children institutions situate within their areas of jurisdiction.

(2) Women affairs officers shall be appointed to carry out duties in relation to

Special Mother Centres.

(3) All officers appointed to all the approved institutions defined in section 252 of this Act and specified in this section shall be persons with background training in criminology, criminal justice, sociology, psychology, social psychology, guidance and counseling, or social work.

253.—(1) The Minister or the Minister of Internal Affairs, as the case may be, may, by notice in the Gazette, appoint such persons as he may think fit to be visitors in relation to such approved institutions as may be specified in the notice.

Visitors and
visiting
committees.

(2) In addition to persons appointed under Subsection (1) of this section, the following persons shall be ex-officio visitors to all approved children institutions—

(a) the President and the Justice of the Court of Appeal ;

(b) the Chief Judge of the State or of the Federal Capital Territory, Abuja, as the case may be ;

(c) Judges of the Court at the High Court level ; and

(d) members of the Court at the Magisterial level.

(3) The Minister may, where necessary, by notice in the Gazette, appoint such number of visitors to constitute a visiting committee in relation to such approved institutions as may be specified in the notice without prejudice to the general right of visitation on the part of other visitors.

(4) Visitors and visiting committees shall perform such functions and duties in relation to approved institutions as may be prescribed.

(5) The Minister may, by notice in the Gazette, delegate the powers conferred by this section to appoint visitors, and visiting committees in respect of Federal approved institutions in a State to the appropriate Commissioner of State.

(6) The provisions of this section which give the Minister power to appoint persons as visitors shall not come into operation in respect of a State until the Minister has signified in the Gazette the consent of the Governor of the State to the appointment

254. The Director or Comptroller-General, as the case may be, may authorise such persons as he may think fit as voluntary visitors to carry out such functions and duties in relation to approved institutions as may be prescribed.

Appointment
of voluntary
visitors.

255. The Minister shall cause to be provided in approved institutions facilities for the observation of any child or youth detained therein on whose physical or mental condition a medical report is required for the assistance of a Court in determining the most suitable method of dealing with his case.

Facilities for
observation
of children in
approved
institution.

Transfer
from
Children
Correctional
Centre to
Special
Children
Centre.

256.—(1) If the Director or Comptroller-General reports to the Minister or Commissioner as the case may be, that a child detained in a Children Correctional Centre is incorrigible, or is exercising a bad influence on the other inmates of the institution, the Minister or Commissioner may direct that the child be committed to a Special Children Correctional Centre for such term, not exceeding the unexpired portion of the term for which the child is then liable to be detained in the Children Correctional Centre as the Court may determine.

(2) A child committed to a Special Children Correctional Centre under subsection (1) of this section shall, for the purposes of this Act, be treated as if he has been ordered to be committed to the Children Correctional Centre for that term.

(3) No report made under subsection (1) of this section by the Director or the Comptroller-General to the Minister or Commissioner, as the case may be, shall be made earlier than six months following the date of the order committing the child concerned to the Children Correctional Centre.

Release from
approved
institution,
etc.

257.—(1) A child detained in a Children Attendance Centre or a Children Correctional Centre shall, on attaining the age of eighteen years, be released, unless he is considered to require further training and instruction in a Youth Correctional Centre, in which case, he shall be transferred to a Youth Correctional Centre.

(2) Where the Director reports to the Minister that a child detained in a Special Children Correctional Centre is attaining the age of eighteen years, is still incorrigible or is still exercising an influence on other inmates, the Minister may direct that the child be committed to a Special Youth Correctional Centre.

RELEASE AND POST-RELEASE SUPERVISION

Release and
supervision
after
training at
the Children
Centre.

258. Subject to the provisions of section 257 of this Act, a child ordered to be detained in a Children Correctional Centre shall, after his release from the Children Centre, be subject to supervision in accordance with the provisions of section 259 of this Act.

Post-release
supervision
of children
offenders.

259.—(1) A child shall —

(a) after his release from an approved institution and until the expiration of four years from the date of the order committing him to the approved institution be under the supervision of such after-care association or person as may be specified in a notice to be given him by the Director or Comptroller-General on his release ; and

(b) while under that supervision, comply with such requirements as may be so specified, so however, that the Director or Controller-General may at any time modify or cancel any of those requirements, or order that the child shall cease to be under supervision.

(2) If, before the expiration of four years from the date of the order committing a child to an approved institution, the Director or Comptroller-General is satisfied that the child, after his release from the approved institution under section 257 of this Act, has failed to comply with any requirement for the time being specified in the notice given to him under subsection (1) of this section, the Director or Comptroller-General may direct the child to be recalled to an approved institution.

(3) A child who is recalled into an approved institution is liable to be detained in the approved institution until the expiration of —

(a) three years from the date of the order committing the child to the approved institution ; or

(b) six months from the date of his being taken into custody under the direction, whichever is the later, and, if at large, shall be deemed to be unlawfully at large.

(4) A direction by the Director or Comptroller-General recalling a child to an approved institution shall, at the expiration of four years from the date of the order committing the child to the approved institution, cease to have effect unless the child to whom it relates is then in custody thereunder.

(5) The Director or Comptroller-General may, at any time, release a child who is detained in an approved institution under this section and the provisions of this section shall apply in the case of a child so released as they apply in the case of a child released under section 257 of this Act.

(6) If a child while under supervision, or after recall to an approved institution is ordered to be committed to an approved institution or is sentenced by the Court or any other court to an approved institution for training, the original order or sentence-

(a) shall cease to have effect ; and

(b) if imprisonment, any period for which he is so imprisoned under that sentence shall count as part of the period for which he is liable to be detained in an approved institution under his original sentence.

(7) The Director or Comptroller-General shall, in exercising his functions under this section, act in accordance with any general or special directions of the Minister or Commission, as the case may be, in whether it is advisable to release a child from an approved institution.

(8) In this section, any reference to the date of an order committing a child to an approved institution for training shall in relation to a child who has appealed against his order or sentence, be construed as a reference to the date on which the order or sentence was finally affirmed.

PART XXIII—THE NATIONAL, STATE AND LOCAL GOVERNMENT CHILD RIGHTS
IMPLEMENTATION COMMITTEES

NATIONAL CHILD RIGHTS IMPLEMENTATION COMMITTEE

Establishment
and
membership
of the
National
Child Rights
Implementation
Committee.

260.—(1) There is established a committee to be known as the National Child Rights Implementation Committee (in this Part of this Act referred to as “the National Committee”).

(2) The National Committee shall comprise —

(a) the Permanent Secretary of the Federal Ministry of Women Affairs and Youth Development, as Chairman ;

(b) one person to represent each of the following Federal Ministries and Governmental Bodies—

(i) Women Affairs and Youth Development

(ii) Education,

(iii) Information and National Orientation,

(iv) Health,

(v) Justice,

(vi) Labour and Productivity,

(vii) Foreign Affairs,

(viii) National Planning Commission,

(ix) Nigerian Law Reform Commission,

(x) Nigeria Police Force,

(xi) Nigeria Prisons Service,

(xii) Nigerian Immigration Service,

(xiii) National Broadcasting Commission,

(xiv) News Agency of Nigeria ;

(c) two persons to represent Non-Governmental Organisations concerned with the rights and welfare of children ;

(d) three persons to represent the broad spectrum of the relevant disciplines in the academic institutions ;

(e) three childcare experts from various disciplinary backgrounds ;

(f) one person to represent the Nigerian Union of Journalists ;

(g) one person each to represent each of the following United Nations Agencies —

(i) United Nations Children Fund, as a collaborating agency,

(ii) United Nations Educational, Scientific and Cultural Organisation, as an observer agency ;

- (iii) International Labour Organisation, as an observer agency, and
- (iv) World Health Organisation, as an observer agency ; and
- (h) such other persons or bodies, as the Minister may, from time to time, appoint.

261.—(1) The functions of the National Committee are to—

Functions of
National
Committee.

(a) initiate actions that shall ensure the observance and popularisation of the rights and welfare of a child as provided for in—

- (i) this Act,
 - (ii) the United Nations Convention on the Rights of the Child,
 - (iii) the Organisation of African Unity Charter on the Rights and Welfare of the Child,
 - (iv) the Declaration of the World Summit for Children,
 - (v) the Dakar Consensus and National Programme of Action,
 - (vi) such other International Convention, Charters and Declarations relating to children to which Nigeria is or becomes a signatory ;
- (b) continually keep under review, the state of implementation of the rights of a child ;
- (c) develop and recommend to the Federal Government and to the State and Local Government, through their respective State and Local Government Committees, specific programmes and projects that shall enhance the implementation of the rights of a child ;
- (d) collect and document information on all matters relating to the rights and welfare of a child ;
- (e) commission inter-disciplinary assessments of the problems relating to the rights and welfare of a child in the State ;
- (f) encourage and co-ordinate the activities of International, Federal, State and Local Government institutions, organisations and other bodies concerned with the right and welfare of a child ;
- (g) organise meetings, conferences, symposia and other enlightenment fora on the rights and welfare of a child ;
- (h) co-ordinate the activities of and collaborate with the State Committee ;
- (i) prepare and submit periodic reports on the state of implementation of a rights of the child for the submission to the Federal Government, African Union and the United Nations ; and
- (j) perform such other functions relating to the rights of a child as may, from time to time, be assigned to it.

Procedure,
etc. at
meetings.

262. The National Committee shall determine its own quorum and regulate its own proceedings at any of the meetings.

Secretariat of
the National
Committee

263. The Secretariat of the National Committee shall be the Ministry responsible for Women Affairs and Youth Development.

STATE CHILD RIGHTS IMPLEMENTATION COMMITTEE

Establishment
and
membership
of State Child
Rights
Implementation
Committee.

264.—(1) There is established a committee to be known as the State Child Rights Implementation Committee (in this Part of this Act referred to as “the State Committee”).

(2) The State Committee shall comprise —

(a) the Permanent Secretary of the Ministry of Women Affairs and Youth Development as Chairman ;

(b) one person to represent each of the following State Ministries and Governmental bodies, that is —

(i) Women Affairs, -

(ii) Education,

(iii) Information,

(iv) Health,

(v) Justice,

(vi) Youth and Sports,

(vii) Labour and Productivity,

(viii) State Commissioner for Women,

(ix) Nigerian Immigration Service,

(x) Nigeria Police Force,

(xi) Nigeria Prisons Service,

(xii) State Agency for Mass Literacy,

(xiii) Family Court Judges at the High Court level,

(xiv) Family Court Magistrate ;

(c) one childcare expert ;

(d) one person to represent the State approved children institutions ;

(e) one person to represent the State Community homes ;

(f) one person to represent the State branch of the Nigerian Union of Journalists ;

(g) one person to represent the State Branch of the National Council of Women Societies ;

- (h) one person to represent the State Council of Chiefs ;
- (i) one person to represent the State Branch of Christian Women Organisation ;
- (j) one person to represent the State Branch of the Federation of Muslim Women Association of Nigeria ;
- (k) one person to represent Market Men Associations ;
- (l) one person to represent Market Women Associations ;
- (m) one person to represent the Parents/Teachers Association in the State ;
- (n) two persons to represent organisations involved in the protection of the rights of a child in the State ; and
- (o) one person to represent the State Branch of the National Union of Teachers.

265.—(1) The functions of the State Committee are to —

Functions of
the State
committee.

- (a) initiate actions that will ensure the observance and popularisation of the rights and welfare of a child as provided for in —
 - (i) this Act,
 - (ii) the United Nations Convention on the Rights of the Child,
 - (iii) the Organisation of African Unity Charter on the Rights and Welfare of the Child,
 - (iv) the Declaration of the World Summit for Children,
 - (v) the Dakar Consensus and National Programme of Action,
 - (vi) such other International Conventions, Charters and Declarations relating to children to which Nigeria is or becomes a signatory ;
- (b) continuously keep under review, the State of implementation of the rights of a child ;
- (c) develop and recommend to the State and Local Governments, through their respective Local Government Child Rights Implementation Committees, specific programmes and projects that shall enhance the implementation of the rights of a child ;
- (d) collect and document information on all matters relating to the rights and welfare of a child ;
- (e) commission inter-disciplinary assessments of the problems relating to the rights and welfare of a child in the State ;
- (f) encourage and co-ordinate the activities of State and Local Government institutions, organisations and bodies concerned with the rights and welfare of a child ;
- (g) organise meeting, conference, symposia and other enlightenment for the rights and welfare of a child ;
- (h) coordinate the activities of and collaborate with the Local Government Committees ;

(i) prepare and submit periodic reports on the State of implementation of the rights of the child for submission to the National Committee ; and

(j) perform such other functions relating to the rights of the child as may from time to time be assigned to it.

Procedure at meetings.

266. The State Committee shall determine its own quorum and regulate its own proceedings at any of its meetings.

Secretariat of the State Committee.

267. The Secretariat of the State Committee shall be the Ministry responsible for Children.

LOCAL GOVERNMENT CHILD RIGHTS IMPLEMENTATION COMMITTEE

Establishment and membership of the Local Government Child Rights Implementation Committee.

268.—(1) There is established a committee to be known as the Local Government Child Rights Implementation Committee (in this Part of this Act referred to as "the Local Government Committee").

(2) The Local Government Committee shall comprise—

(a) the Secretary of the Local Government as Chairman ;

(b) the Supervisor for Health and Social Welfare in the Local Government ;

(c) the Supervisor for Education in the Local Government ;

(d) the Information Officer in the Local Government ;

(e) the Children Development Officer in the Local Government Area ;

(f) one person to represent District or Village Heads in the Local Government Area ;

(g) a Community Development Officer in the Local Government Area ;

(h) the representative of the National Union of Teachers in the Local Government Area ;

(i) the representative of the Parents and Teachers Association in the Local Government Area ;

(j) one person to represent the Heads of Market Men ;

(k) one person to represent the Heads of Market Women ;

(l) one person to represent the opinion leaders in the Local Government Area ;

(m) two persons to represent two community based organisations ;

(n) one person to represent the National Council of Women Societies in the Local Government Area.

Functions of the Local Government Committee.

269. The functions of the Local Government Committee are to—

(a) initiate actions that shall ensure the observance and popularisation of the rights and welfare of a child as provided for in—

(i) this Act,

(ii) the United Nations Convention on the Rights of the Child,

(iii) the Organisation of African Unity Charter on the Rights and Welfare of the Child,

(iv) the Declaration of the World Summit for Children,

(v) the Dakar Consensus and National Programme of Action ; and

(vi) such other International Conventions, Charters and Declarations relating to children to which Nigeria is or becomes a signatory ;

(b) continuously keep under review, the State of implementation of the rights of a child ;

(c) develop and recommend to the Local Government, specific programmes and projects that shall enhance the implementation of the rights of a child ;

(d) collect and document information on all matters relating to the rights and welfare of a child ;

(e) commission inter-disciplinary assessments of the problems relating to the rights and welfare of a child in the Local Government Area ;

(f) encourage and coordinate the activities of Local Government institutions, organisations and bodies concerned with the rights and welfare of a child ;

(g) organise meetings, conferences, symposia and other enlightenment for the rights and welfare of a child ;

(h) prepare and submit periodic reports on the state of implementation of the rights of a child for submission to the State Committee ; and

(i) perform such other functions relating to the rights of a child as may from time be assigned to it.

270. The Local Government Committee shall determine its own quorum and regulate its own proceedings at any of its meetings.

Procedure
etc. at
meetings.

271. The Secretariat of the Local Government Committee shall be the office of the Chairman of the Local Government.

Secretariat of
the Local
Government
Committee.

PART XXIV—MISCELLANEOUS

272. If an offence under this Act is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of a body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, commit an offence and are liable to be proceeded against and punished accordingly.

Offences by
bodies
corporate.

273.—(1) Any notice or other document required under this Act to be served on any person may be served on him by being delivered personally to him, or being sent by post to him by registered post or by the recorded delivery service at his proper address.

Service of
documents.

(2) Any notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.

(3) For the purposes of this section, the proper address of a person shall—

(a) in the case of a secretary or clerk of a body corporate, be that of the registered or principal office of that body ;

(b) in the case of a partner of a firm, be that of the principal office of the firm ;
and

(c) in any other case, be the last known address of person to be served.

Suspension
and
inconsistency.

274.—(1) The provisions of this Act supercede the provisions of all enactments relating to —

(a) children ;

(b) adoption, fostering, guardianship and wardship ;

(c) approved institutions, remand centres and borstal institutions ; and

(d) any other matter pertaining to children already provided for in this Act.

(2) Accordingly, where any provision of this Act is inconsistent with that of any of the enactments specified in subsection (1) of this section, the provision of this Act shall prevail and that other provision shall, to the extent of its inconsistency, be void.

Delegation of
powers by the
Minister.

275. The Minister may, by order published in the Gazette, delegate any of his powers under this Act, other than the power to make regulations, to the appropriate Commissioners in the States.

Forms in the
Eleventh
Schedule.

276. The forms set out in Part 1 of the Eleventh Schedule to this Act shall have effect with respect to the matter specified therein.

Interpretation.

277. In this Act—

“act” includes an omission ;

“adoption service” means an adoption service established under section 128 of this Act ;

“age of majority” means the age at which a person attains the age of eighteen years ;

“appropriate education authority” means the Ministry of Education of the State concerned ;

“approved institution” has the meaning assigned to in section 285 of this Act ;

“care order” has the meaning given by section 53 (1) (a) of this Act and also includes any order which by or under any enactment has the effect of, or is deemed

to be, a care order for the purposes of this Act ; and any reference to a child who is in the care of an authority is a reference to a child who is in its care by virtue of a care order ;

“child” means, a person under the age of eighteen years ;

“child assessment order” means an order made under section 41 (1) of this Act ;

“child minder” has the meaning given by section 163 of this Act ;

“child fostered privately” and “to foster a child privately” have the same meaning as in section 120 of this Act ;

“child of the family” in relation to the parties to a marriage, means—

(a) a child of both of those parties ;

(b) any other child, not being a child who is placed with those parties as foster parents by a local authority or voluntary organisation, who has been treated by both of those parties as a child of their family ;

“children’s home” means a children’s home registered under section 195 of this Act ;

“Commissioner” means the Commissioner charge with responsibility for matters relating to children in the State and “ministry” shall be construed accordingly ;

“community home” has the meaning assigned to it under section 186 of this Act ;

“contact order” has the meaning assigned to it under section 55 (9) of this Act ;

“court” means the Family court established under section 149 of this Act ;

“day care” has the meaning assigned to it under section 163 of this Act ;

“disabled” in relation to a child has the same meaning as the section 178 (8) of this Act ;

“domestic premises” has the meaning assigned to it under section 168 (1)(a) of this Act ;

“education supervision order” means an order under section 58 (1) of this Act ;

“education authority” means the Ministry of Education of a State ;

“emergency protection order” means an order under section 42 (1) of this Act ;

“family proceedings” means proceeding under the jurisdiction of a court under this Act with respect to children ;

“foster parent” has the meaning assigned to it under section 118 of this Act ;

“functions” includes powers and duties ;

“Government hospital” means a hospital established or managed by any Government of the Federation ;

“Governor” means the Governor of a State ;

“guardian of a child” means a guardian (other than a guardian of the estate of a child) appointed in accordance with the provisions of section 85 (1) of this Act ;

"harm" has meaning assigned to it under section 35 of this Act ;

"health authority" means the Ministry of Health of a State ;

"ill-treatment" has the meaning assigned to it under section 50(1),(b) of this Act ;

"independent school" means a privately owned school ;

"Minister" means the Minister charged with responsibility for matters relating to children, and "Ministry" shall be construed accordingly ;

"parental responsibility" means —

(a) all the rights duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property ; and

(b) the rights, powers and duties which a guardian of the estate of the child appointed, before the commencement of this Act to act generally would have had in relation to the child and his property, and includes, in particular, the right of the guardian to recover or receive in his own name, or the benefit of the child, property of whatever description and wherever situated which the child is entitled to receive or recover ;

"parental responsibility agreement" has the meaning assigned to it under section 68 of this Act

"prescribed" means prescribed by regulations made under this Act ;

"prohibited steps order" has the meaning assigned to it under section 55 (9) of this Act ;

"protected child" has the same meaning as in Part IV of this Act ;

"registered children's home" has the meaning assigned to it under Section 199 of this Act ;

"relative" in relation to a child, means a grandparent, brother, sister, uncle, niece or nephew, aunt whether of the full blood or half blood or by affinity or step-parent ;

"residence order" has the meaning assigned to it under section 55 (9) of this Act ;

"responsible person" in relation to a child who is the subject of a supervision order, has the meaning assigned to it under paragraph 1 of the Second Schedule to this Act ;

"school" has the meaning assigned to it in the Education (National Minimum Standards and Establishment of Institution, Act ;

"secure accommodation" means accommodation which is provided in a community home for the purpose of restricting liberty ;

"service" in relation to any provision made under Part XV of this Act, includes a facility ;

"signed" in relation to any person, includes the making by the person of his mark ;

"special education" means the meaning assigned to it in the Education (National Minimum Standards and Establishment of Institutions) Act ;

"special educational needs" means the needs of children who are receiving special education ;

"specific issue order" has the meaning assigned to it under section 55 (9) of this Act ;

"State Government foster parent" has the same meaning assigned to it under Part XI of this Act ;

"supervised child" and "supervisor" in relation to a supervision order or an education supervision order, means respectively, the child who is, or is to be under the supervision and the person under whose supervision he is, or is to be, by virtue of the order ;

"supervision order" has the meaning assigned to it under section 53(b) of this Act ;

"Supervision Inspection Service" has the meaning assigned to it under section 240 of this Act ;

"upbringing" in relation to any child, includes the care of the child but not his maintenance ;

"voluntary home" has the meaning assigned to it under section 191 (1) (i) of this Act ;

"voluntary organisation" means a body other than a public or State authority) whose activities are not carried on for profit ;

(2) Reference in this Act to —

(a) a person with who a child lives, or is to live, as the result of a residence order ; or

(b) a person in whose favour a residence order is in force, shall be construed as references to the person named in the order as the person with whom the child is to live ;

(3) References in this Act to a child who is looked after by a State Government have the same meaning as they have by virtue of Section 180 of this Act ;

(4) References in this Act to accommodation provided by a or on behalf of State Governments are references to accommodation so provided in the exercise of functions assigned to the Ministry ;

(5) In determining the "ordinary residence" of a child for any purpose of this Act, there shall be disregarded any period in which the child lives in a place—

(a) which is a school or other situation ;

(b) in accordance with the requirement of a supervision order under this Act or any other enactment ; or

(c) while he is being provided with accommodation by or on behalf of a State Government.

(6) References in this Act to children who are in need shall be construed in accordance with Section 175 of this Act-

“child in need of special protection measures” includes a child who is mentally or physically disabled and a street child ;

“street child” include—

(a) a child who is homeless and forced to live on the streets ; in market places, and under bridges ; and

(b) a child who, though not homeless, is on the streets engaged in begging for alms, child labour, prostitution, and other criminal activities which are detrimental to the well being of the child ;

“skin mark” means any ethnic or ritual cuts on the skin which leaves permanent marks ; and

“tattoo” means the insertion into the skin of colouring material designed to leave permanent marks ;

“appropriate authority” means the Minister or Commissioner charged with the responsibility for matters relating to education or the authority in charge of an approved institution for treatment and training of the child ;

“harmful publication” means any book, magazine, film, picture, video or audio tape or print or other medium which is a kind targeted at or likely to fall into the hands of children and which consists wholly or mainly of stories told in pictures, with or without the addition of written matter or video film and cassette tape, which contains pictures or stories which portray harmful information., such as—

(a) the commission of crimes ; or

(b) acts of violence or cruelty ; or

(c) incidents of a repulsive or horrible nature ; or

(d) acts of words of an immoral character ; or

(e) obscene and indecent representation, in such a way that the work as a whole would tend to corrupt or deprave a child into whose hands it may fall ;

“photographic film” includes photographic plate ;

“photographic plate” means any plate treated as to reproduce or be intended to reproduce an image of a subject when photographed ;

“plate” except where it occurs in the expression “photographic plate” includes any book, mould matrix and stencil.

“appropriate authority” means a person who is an appropriate authority for the purpose of section 52, as defined in section 61(1) (c) of this Act ;

“a person authorized to seek access” means—

(a) in the case of an application by a State Government—

(i) an officer of the State Government, or

(ii) a person authorized by the State Government to act on its behalf in connection with the enquiries, or

(b) in the case of an application by an appropriate authority, a person authorized by the appropriate authority ;

"the person responsible for the child" means a person who, for the time being, has care of the child by virtue of a care order, or under section 58 of this Act, as the case may be.

"foster parent" means a person, with whom children are placed, from time to time, by an appropriate authority or a voluntary organisation ;

"contact order" means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child concerned to have contact with each other ;

"prohibited steps order" means an order that no step, which could be taken by a parent in meeting his parental responsibility for a child and which is of a kind specified in the order, shall be taken by any person without the consent of the Court ;

"residence order" means an order setting out the arrangements to be made as to the person with whom a child is to live ; and

"specific issue order" means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child ;

"contact order" has the meaning assigned to it under section 55(9) of this Act ;

(a) "appropriate authority" means—

(i) in the case of a child who is being provided with accommodation by, or on behalf of a State Government, that State Government, and

(ii) in any other case, the Government of the State in which the child concerned lives, or will live ;

(b) "education supervision order" means an order made under Subsection (1) of this section ; and

(c) a child is of compulsory school age, if he is not below six years old and eighteen years old.

"the relevant period" means—

(a) the period of six weeks beginning with the date on which the order in question is made ; or

(b) the period of ten weeks beginning with the date on which the first order was

made if that period ends, other than the period mentioned in paragraph (a) of this subsection ;

“scientific sample” means any blood, tissue or any other sample taken for the purpose of conducting a scientific test ;

“scientific test” means any test carried out under this Part of this Act, and includes any test made with the object of ascertaining the inheritable characteristics of blood, tissue, or any other sample.

“specified proceedings” means any proceedings—

(a) on an application for a care order or supervision order ;

(b) in which the Court has given a direction under section 58 (1) of this Act and has made, or is considering whether to make, an interim care order ;

(c) on an application for the discharge of a care order or the variation or discharge of a supervision order ;

(d) on an application under Section 61 of this Act ;

(e) in which the Court is considering whether to make a residence order with respect to a child who is the subject of a care order ;

(f) with respect to a contract between a child who is the subject of a care order and any other person

(g) under Part VIII of this Act ;

(h) on an appeal against—

(i) the making of, or refusal to make a care order, supervision order or any order under section 58 of this Act ;

(ii) the making of, or refusal to make a residence order with respect to a child who is the subject of a care order, or

(iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in sub-paragraph (i) or (ii) of this Subsection,

(iv) the refusal of an application under section 62 of this Act, or

(v) the making of or refusal to make an order under Part VIII of this Act which are specified for the time being, for the purposes of this section, by Rules of Court ;

“guardian” means a person who is the guardian of a child by virtue of the provisions of this Act or a person lawfully appointed to be guardian of the child by deed or will or by an order of a court of competent jurisdiction or by operation of law ;

“appropriate authority” means the State Government in whose State it is proposed to foster the child concerned ;

“foster parent” means a person—

(a) appointed by the State Government to foster a child ; or

(b) with whom a child has been placed, by a voluntary organisation, for fostering ; or

(c) with whom a child has been placed to be fostered privately ;

“Register of Birth” means the Register of Birth kept by the Commission ;

“Commission” means the National Population Commission established under the National Population Commission Act ;

“domestic premises” means any premises which is wholly or mainly used as a private dwelling ; and

“premises” includes vehicle, caravan and cabin ;

“development” means physical, intellectual, emotional, social or behavioural development ;

“family” in relation to a child, includes a person who has parental responsibility for the child and a person with whom the child is living or has been living ;

“health” means physical, emotional or mental health ;

“day care” means any form of care or supervised activity provided for children during the day, whether or not it is provided on a regular basis ;

“supervised activity” means an activity supervised by a responsible person ;

“relevant establishment” means any establishment which is mentioned in paragraphs 3 and 4 of Schedule 6 to this Act and includes a hospital, school and other establishments, exempted from the registration requirements which apply in relation to the provision of day care ; and

“review period” means the period of one year beginning with the commencement of this Act and each subsequent period of three years beginning with an anniversary of that commencement ;

“accommodation” means an accommodation which is provided for a continuous period of more than 24 hours ;

“appropriate authority” means the State Government or any other body having responsibility for the welfare of children looked after by the State Government ;

“harm” means ill-treatment or the impairment of physical, mental, intellectual, emotional, or behavioural health or development ;

“the appropriate education authority” means the Ministry of Education of the State ;

“appropriate authority” means the State Government or voluntary organisation responsible for the management of a community home ;

“voluntary home” means any home or other institution providing care and

accommodation for children which is managed by a voluntary organisation but does not include—

(a) a nursing home, mental nursing home or residential care home ;

(b) a school ;

(c) a health service hospital ;

(d) a community home ;

(e) any home or other institution provided, equipped and maintained by the Minister ; and

(f) any home which the Minister may, from time to time, by regulations, exempt for the purposes of this section ;

“home” includes an institution ;

“approval child care training” means child care training which is approved by the Minister ;

“child care training” means training undergone by any person with a view to, or in the course of—

(a) his employment for the purposes of any of the functions mentioned in section 206 of this Act or in connection with the adoption of children or with the accommodation of children in a residential care home, nursing home or mental nursing home ; or

(b) his employment by a voluntary organisation or similar purposes ;

“secure accommodation” means accommodation provided for the purpose of restricting the liberty of children ;

“secure accommodation” means accommodation provided in a community home for the purpose of restricting liberty ;

“State Government accommodation” means accommodation provided by or on behalf of a State Government within the meaning of Part XV of this Act ;

A reference in this section—

(a) “to a child who is being looked after by a State Government”, means a child who is—

(i) in the case of the State Government, or

(ii) provided with accommodation by the State Government in exercise of its function as under this Act or any other law ;

(b) to consultation, shall be construed as a reference to such consultation, if any, as is reasonably practicable in all the circumstances of the case ; and

(c) in relation to a child charged with or convicted of a violent or sexual offence, to protecting the public from serious harm from him, shall be construed as a reference to protecting members of the public from death or serious personal injury, whether

physical or psychological, occasioned by further commission by him of a similar offence ;

“imprisonable offence” means an offence punishable, in the case of an audit, with the death penalty or imprisonment only, without the option of fine ;

“secure accommodation” means accommodation which is provided in a community home for the purpose of restricting liberty ;

“sexual offence” and “violent offence” have the meanings assigned to them in the relevant code of criminal law ;

“appropriate officers” means such officers as may be assigned by the Ministry with the responsibility for carrying out the investigation referred to in subsection (1) of this section ;

“fit and proper person” includes an appropriate authority ;

“nursing mother” means a mother whose child is not more than two years old ;

“supervision” consists of such supervision as is provided for in Part XXI to this Act ; and

“approved accommodation” includes—

- (i) a community home as provided for in the Eight Schedule to this Act,
- (ii) a voluntary home as provided for in Part XVII of and the Ninth Schedule to this Act,
- (iii) a registered children's home as provided for in Part XVIII of Schedule 10 to this Act,
- (iv) an educational institution to which a child is committed by an order under Part VI or XV of this Act, and
- (v) any other form of accommodation which a State Government may provide for children within its boundaries under Part XV of this Act.

“manager” means the supervisor, principal or person in charge of an approved institution ;

“non-institutional order” means an order, made by the Court on the disposal of a case, which does not involve a child offender being placed in an institution ;

“Governor” means the Governor of a State ;

“Comptroller-General” means the Comptroller-General of the Nigeria Prison Service ;

“Director” means the Federal or State Director responsible for matters relating to children in the Ministry.

278. This Act may be cited as the Child's Rights Act, 2003.

Citation.