

**CHILD ADOPTION ACT,
B.E. 2522 (1979)****

BHUMIBOL ADULYADEJ, REX.
Given on the 22nd Day of April B.E. 2522;
Being the 34th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to have a law on child adoption;
Be it, therefore, enacted by the King by and with the advice and consent of
the National Legislative Assembly acting as the National Assembly, as follows:

Section 1. This Act is called the “Child Adoption Act, B.E. 2522 (1979)”.

Section 2. This Act shall come into force after the expiration of sixty days following the date of its publication in the Government Gazette.¹

Section 3. All other laws, rules and by-laws in so far as they have already been provided herein, or are in conflict or inconsistent with the provisions of this Act, shall be replaced by this Act.

Section 4. In this Act:

“child” means a minor in accordance with the Civil and Commercial Code;

* Translated by Ms. Arriya Phasee under contract for the Office of the Council of State of Thailand's Law for ASEAN project. –Tentative Version– subject to final authorisation by the Office of the Council of State.

** As amended up to the Child Adoption Act (No.3), B.E. 2553 (2010)

¹Published in the Government Gazette Vol. 96, Part Special, Special Issue, Page 21, dated 22nd April B.E. 2522 (1979).

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“child welfare organisation” means a foundation, association, or organisation established under the law with the objectives to assist children and carry out activities in connection with child adoptions;

“Court” means a juvenile court under the law on establishment of juvenile court or a provincial court in the region where there is no juvenile court;

“competent official” means a person appointed by the Minister to execute this Act;

“Director-General” means the Director-General of the Department of Social Development and Welfare*;

“Committee” means the Child Adoption Committee;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5.² In order to protect children who will be adopted, the application, the registration and the dissolution of child adoptions shall be made in accordance with the rules, procedures and conditions stipulated in this Act.

In the application for child adoptions in paragraph one, an adoption preparation shall be arranged for the applicant and the child to be adopted in accordance with the rules, procedures and conditions prescribed by the Child Adoption Committee.

Section 5/1.³ A child adoption in foreign countries, which is a party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, in which a competent authority of that country certifies that it has complied with the above Convention and such adoption is not in conflict with the law, public order or good morals of the people, shall be considered as the adoption made in accordance with this Act.

The Minister shall have the power to announce a list of countries which are the parties to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption in the Government Gazette.

²Section 5 has been amended by the Child Adoption Act (No. 3), B.E. 2553 (2010).

³Section 5/1 has been added by the Child Adoption Act (No. 3), B.E. 2553 (2010).

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Section 6. No person, except the Department of Social Development and Welfare*, the official agencies assigned by the Department of Social Development and Welfare* or the child welfare organisations licensed by the Director-General, may proceed to arrange any child adoption, directly or indirectly.

Section 7. A child welfare organisation wishing to proceed to arrange child adoptions shall apply for a license from the Director-General.

The rules, procedures and conditions for the application for the license, the granting of the license and the form of the license shall be as stipulated in Ministerial Regulations.

Section 8. In the case where the Director-General refuses to grant the license under section 7 to a child welfare organisation, the Director-General shall notify the order of refusal, together with reasons, to such child welfare organisation without delay. The child welfare organisation shall have the right to appeal against such order to the Minister within thirty days from the date of receipt of such order. The order of the Minister shall be final.

In the case where the child welfare organisation which has been granted the license under section 7 violates the conditions of the permission or acts in a manner detrimental to the public order or good morals of the people or to the welfare of a child, the Director-General shall have the power to revoke such license, and the provision of paragraph one shall apply, *mutatis mutandis*.

Section 9. There shall be a committee called the “Child Adoption Committee”, consisting of the Director-General as Chairperson, representative of the Ministry of Foreign Affairs, representative of the Bangkok Metropolitan Administration, representative of the Department of Provincial Administration, representative of the Royal Thai Police Department, representative of the Public Prosecution Department, and not more than eight qualified members appointed by the Minister, of which not less than one-half shall be female, as members; and the Director of the Child Adoption Centre shall be member and secretary.

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Section 10. A qualified member shall hold office for a term of two years.

Where there is an appointment of a qualified member while the appointed qualified members are still in office, irrespective of being an additional appointment or an appointment to fill a vacancy, the appointee shall be in office for the unexpired term of office of the qualified members already appointed.

A qualified member who vacates office may be reappointed.

Section 11. In addition to vacating office on the expiration of term under section 10, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being bankrupt;
- (4) being an incompetent or quasi-incompetent person;
- (5) being imprisoned due to a final judgment to a term of imprisonment except for an offence committed through negligence or a petty offence.

Section 12. At a meeting of the Committee, the presence of not less than one-half of all members is required to constitute a quorum. If the Chairperson is not present at the meeting, the members present shall elect one among themselves to preside over the meeting.

A decision of the meeting shall be made by a majority of votes. In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

Section 13. The Committee may appoint one or several sub-committees to carry out any act as may be assigned to them.

The provision of section 12 shall apply, *mutatis mutandis*, to the meetings of the sub-committees.

Section 14. The Committee shall have the following powers and duties:

- (1) to issue rules, regulations and procedures relating to child adoptions to be observed by the Child Adoption Centre, the licensed child welfare organisations and other related agencies;

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- (2) to consider and adopt a resolution on child adoptions;
- (3) to consider problems concerning child adoptions;
- (4) to give recommendations concerning child adoptions to the Child Adoption Centre, the licensed child welfare organisations and other related agencies.

Section 15. The Child Adoption Centre established in the Department of Social Development and Welfare* shall act as the Office of Secretary of the Committee.

Section 16. For the execution of this Act, the Director-General, the provincial governor or a competent official shall have the following powers:

(1) to enter the place of residence of the parents, the guardian, the applicant for the adoption, a welfare institute, a nursery, the place of residence of the child, or the office of a child welfare organisation from sunrise to sunset for meeting, interrogating, searching for facts, gathering documents and evidence in relation to the condition of living and the maintenance of the child, or inspecting the activities of a child welfare organisation, and to have the power to search such places in order to find or bring the child back, but such search may be carried out only when written permission is obtained from the Director-General or the provincial governor and produced to the owner or keeper of the place to be searched;

If the Director-General or the provincial governor carry out the search, search permit shall not be required.

(2) to order, in writing, the parents, the guardian, the applicant for the adoption, or the official of a child welfare organisation, as well as other related persons to come to give statements or furnish necessary documents or evidence or to bring along or return the child.

Section 17. In executing the duties, the competent official shall be an officer under the Criminal Code.

Section 18. No person may bring or send any child out of the Kingdom with the purpose to cause him or her to be adopted, directly or indirectly, unless permission is obtained from the Minister in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

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Section 18/1.⁴ No person may use deception, intimidation, force, undue influence or otherwise coercion or be an intermediate who induces by paying a fee or reward or any other improper benefits in order to obtain consent to a child adoption.

Section 19. A child adoption shall be subject to a probationary placement and must be approved for the adoption in accordance with the provisions of this Act.

The probationary placement under paragraph one shall not apply to the cases where the applicant for the adoption is an older sibling of full-blood or half-blood of a child to be adopted, or his or her great grandfather or grandmother, grandfather, grandmother, uncle, aunt, or guardian or any other person in accordance with the criteria and conditions stipulated in Ministerial Regulations.⁵

Section 20. Any person wishing to apply for a child adoption shall submit the application, together with a letter of consent from the person who has the power to give consent to the adoption according to the law, in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

In the case where the applicant has a domicile in Bangkok Metropolis or in a foreign country, he or she shall submit the application to the Director-General. With regard to other provinces, applications shall be submitted to the provincial governor.

Section 21. Upon receipt of the application for a child adoption, the competent official shall examine the qualifications and facts concerning the condition of living and the suitability of the applicant, the person having the power to give consent to the adoption and the child to be adopted.

The examination on the qualifications and facts concerning the condition of living and the suitability of the persons under paragraph one shall be as stipulated in Ministerial Regulations⁶.

⁴Section 18/1 has been added by the Child Adoption Act (No. 3), B.E. 2553 (2010).

⁵Section 19, paragraph two has been amended by the Child Adoption Act (No. 2), B.E. 2533 (1990).

⁶Section 21, paragraph two has been added by the Child Adoption Act (No. 3), B.E. 2553 (2010).

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Section 22. After the Director-General or the provincial governor, as the case may be, has considered the report of examination of the qualifications and facts or the documents showing the facts under section 20 and section 21, the Director-General or the provincial governor shall consider whether or not the applicant for the adoption should be permitted to continue to carry out a probationary placement.

If the Director-General or the provincial governor orders that the probationary placement of a child should not be permitted, the applicant for the adoption may appeal against such order by filing a petition with the Court within sixty days from the date of acknowledgement of the order. The order of the Court of First Instance shall be final.

Section 23. When the Director-General or the provincial governor has ordered a probationary placement of a child, the applicant for the adoption may take the child to be adopted into care on a probationary placement.

The period of probationary placement shall be not less than six months.

The rules, procedures and conditions for the probationary placement shall be as stipulated in Ministerial Regulations.

Section 24. During the period of probationary placement, if the applicant for the adoption withdraws the application for the child adoption, the applicant shall return the child to the person who has the power to give consent to the adoption or to the competent official.

A return of the child under paragraph one shall be made without delay. The Director-General or the provincial governor, as the case may be, shall issue an order in writing notifying the applicant to return the child within a prescribed timeframe, taking into account the distance, the convenience in returning the child and the welfare of the child.

Section 25. During the period of probationary placement, the father or mother, whether or not he or she is the person giving consent, may request to cancel the application for the child adoption by submitting a request to the Director-General or the provincial governor, as the case may be. If the Director-General or the provincial governor orders to cancel the application for the child adoption, the applicant shall return the child to the parent who has requested for the cancellation, and the provision of section 24, paragraph two shall apply, *mutatis mutandis*.

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In the case where the Director-General or the provincial governor deems that the request for cancellation of the application for the child adoption adversely affects the welfare of the child, or the parental power of the father or mother who has requested for the cancellation has been revoked by the Court's order, the applicant for the adoption shall continue to maintain the child on a probationary placement. The person filing the request in paragraph one may appeal against the order of the Director-General or the provincial governor by filing a petition with the Court within thirty days from the date of acknowledgement of such order. The order of the Court shall be final.

Section 26. During the period of probationary placement, if the competent official advises the Director-General or the provincial governor, as the case may be, that the applicant for the adoption is not suitable to adopt the child, when the Director-General or the provincial governor orders to terminate the probationary placement, the applicant shall return the child to the competent official, and the provision of section 24, paragraph two shall apply, *mutatis mutandis*.

The applicant for the adoption may appeal against the order of the Director-General or the provincial governor under paragraph one by filing a petition with the Court within thirty days from the date of receipt of such order.

The order of the Court of First Instance in paragraph two shall be final.

Section 27. After the period of probationary placement is complete, if it appears that the applicant for the adoption is suitable to adopt the child and the Committee orders to approve the adoption, such adoption may be registered in accordance with the law governing the same.

For the purpose of the registration of a child adoption, it shall be deemed that the consent of the person who has the power to give consent to the adoption as submitted under section 20 is the consent to the registration.

Section 28. After the period of probationary placement is complete, if it appears that the applicant for the adoption is not suitable to adopt the child and the Committee orders not to approve the adoption, the Director-General or the provincial governor, as the case may be, shall order the applicant to return the child to the person who has the power to give consent to the adoption, the parents, the guardian or the

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competent official. In this case, the applicant must return the child, and the provision of section 24, paragraph two shall apply, *mutatis mutandis*.

The applicant for the adoption may appeal against the order of the Committee in paragraph one by filing a petition with the Court within thirty days from the date of receipt of such order.

During the period of the Court's consideration, the applicant may request to the Court that the child remains under the applicant's care.

The order of the Court of First Instance in paragraph two and paragraph three shall be final.

Section 29. When the Committee has approved the child adoption under section 27, or in the case where the appeal against the order of the Committee under section 28 has been made and the Court has ordered to approve the child adoption, if the applicant for the adoption fails to proceed with the registration of a child adoption within six months from the date of receipt of the Committee's approval or from the date of issuance of the Court's order, it shall be deemed that the applicant has waived the right to adopt the child and the child shall be returned to the person who has the power to give consent to the adoption or the competent official, and the provision of section 24, paragraph two shall apply, *mutatis mutandis*.

In the case where there is a special circumstance in which the registration cannot be made within the timeframe prescribed in paragraph one, the applicant for the adoption shall submit a request stating such special circumstance to the Committee in accordance with the criteria and procedures prescribed by the Committee, and the Committee may consider extending the period of the registration of a child adoption for no longer than three months from the date on which such special circumstance ends⁷.

Section 30. When an appeal against an order is made by way of filing a petition with the Court under this Act, the Court shall submit a copy of the petition and inform the Director-General, the Chairperson or the provincial governor, as the case may be, of the hearing date.

⁷Section 29, paragraph two has been added by the Child Adoption Act (No. 3), B.E. 2553 (2010).

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Section 31. Any case trial and reading of a court order regarding child adoptions under this Act shall be conducted confidentially, and only the following persons shall be allowed to be present in the trial room:

- (1) The parents, the guardian, or the person who has the power to give consent to the adoption, and their lawyer;
- (2) The applicant for the adoption and his or her lawyer;
- (3) Objector and his or her lawyer;
- (4) Court officer;
- (5) The competent official and the official of the relevant child welfare organisation;
- (6) Witness, specialist and interpreter;
- (7) The person summoned by the Court to provide factual statements and other persons deemed appropriate by the Court.

If the Court deems that any person should not be present in the trial room at any point of time, the Court shall have the power to order all persons or such persons deemed inappropriate to be present thereat to leave the trial room.

Section 31/1.⁸ In the case where the adopter wishes to dissolve the adoption and the adopted child is still a minor, prior to filing the application to register a dissolution of adoption or the application to the Court under section 1598/31 of the Civil and Commercial Code, the adopter shall firstly inform the competent official for solving the problems and improving the relationship at a primary stage and participate in a consultation and treatment process, in accordance with the criteria and procedures stipulated in Ministerial Regulations.

In the case of dissolution of a child adoption, if the adopted child is still a minor and used to be under supervision of a welfare institute during the period of the registration of a child adoption, or the child has no parents or guardian to take care of them, the competent official shall arrange for the child to receive assistance or welfare protection in accordance with the law on child protection, provided that the adopter who dissolves the adoption shall continue to have a duty to pay for the maintenance and education as

⁸ Section 31/1 has been added by the Child Adoption Act (No. 3), B.E. 2553 (2010).

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appropriate in accordance with his or her ability until the child has become *sui juris* and shall continue to pay for the maintenance if such child is handicapped or infirm and unable to earn his or her living although he or she has become *sui juris*, except in the case that the adopted child conducts an action under section 1598/33 (1), (2), (3) or (6) of the Civil and Commercial Code or there is another adopter maintaining the child, in which cases, the adopted child shall not be entitled to the maintenance under this section. The claim for such maintenance and education may be executed by the competent official and filed as a lawsuit by a prosecutor.

Section 32. No person may make publication of the picture, name, or any statement which will cause the child to be adopted or the adopted child, the parents or the guardian of the child to be adopted or the adopted child, or the applicant for the adoption or the adopter, to be known, and a publication of the Court's order under this Act may not be made, except where it is necessary for official interest.

Section 33. The proceedings under this Act shall be exempt from Court fees.

Section 34.⁹ Any person who violates section 6 or section 18 shall be liable to imprisonment for a term of not exceeding three years or to a fine not exceeding sixty thousand baht or to both.

Section 34/1.¹⁰ Any person who violates section 18/1 shall be liable to imprisonment for a term of four years to ten years, or to a fine of eighty thousand baht to two hundred thousand baht, or to both.

Section 35. Any person who obstructs or fails to provide convenience to the persons performing the duty under section 16 (1) or fails to comply with the order under section 16 (2) shall be liable to imprisonment for a term of not exceeding three months or to a fine not exceeding three thousand baht or to both.

⁹Section 34 has been amended by the Child Adoption Act (No. 3), B.E. 2553 (2010).

¹⁰Section 34/1 has been added by the Child Adoption Act (No. 3), B.E. 2553 (2010).

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Section 36. An applicant for the adoption who fails to return the child according to section 24, section 25, paragraph one, section 26, paragraph one, section 28, paragraph one and section 29 shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding ten thousand baht or to both.

Section 37. Any person who violates section 32 shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding ten thousand baht or to both.

Section 38. In the case where the offender liable under this Act is a juristic person, the managing director, manager or a representative of such juristic person shall also be liable for the punishment prescribed for such offence, except where such person can prove that he or she was not involved in the offending act committed by the juristic person.

Section 38/1.¹¹ Any person who commits the offences stipulated in section 6, section 18 or section 18/1 outside the Kingdom while the Thai government or a Thai person is a damaged party, such person shall be punished in the Kingdom, and the provision of section 10 of the Criminal Code shall apply, *mutatis mutandis*.

Section 39. The Minister of Social Development and Human Security* shall have charge and control over the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulations for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

Countersigned by:

S. Hotrakitya

Deputy Prime Minister

¹¹Section 38/1 has been added by the Child Adoption Act (No. 3), B.E. 2553 (2010).

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