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Country:	SAINT CHRISTOPHER AND NEVIS
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Arrangement of Sections

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SCHEDULE

I assent

Clement A. Arrindell
Governor-General

SAINT CHRISTOPHER AND NEVIS
No. 6 of 1994

AN ACT to make better provision for the care and protection of children.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:-

Short title

1. This Act may be cited as the Probation and Child Welfare Board Act, 1994, and shall come into operation on the 15th day of November, 1994.

Interpretation

2. For the purposes of this Act,

- (a) "Board" means the Probation and Child Welfare Board established by section 3;
- (b) "child" means a person under the age of eighteen years;
- (c) "child abuse" means non-accidental injury inflicted upon a child by a person responsible for the care and maintenance of the child including wilful assault, ill-treatment and neglect in a manner likely to cause unnecessary suffering or injury to health including injury to or loss of sight or hearing or of any limb or organ of the body or any mental derangement and includes sexual abuse as defined by law or the involvement of any child in activities of a sexual nature to which they cannot give consent including fondling, kissing, engaging in prostitution, the photographing or depiction of a child for indecent or pornographic purposes or a course of sexual conduct that causes or is likely to cause the health or welfare of the child to be harmed or threatened.
- (d) "child care centre"

- (i) means a place where children are cared for, and
 - (ii) includes a children's home, day nursery and reception centre;
- (e) "foster care" means the care of children in any household in which neither parent is a member for a period exceeding three months and includes daily minding".
 - (f) "foster child" means a child under the age of eighteen years whose care and maintenance are being undertaken by a person other than its parent for a period exceeding three months;
 - (g) "foster home" means a private home approved by the Board for the placement of a child who is in the care of the Board; and
 - (h) "foster parent" means the person undertaking the care and maintenance of a foster child and approved by the Board;
 - (i) "imminent danger" includes -
 - (a) substantial impairment of the intellectual, psychological or emotional capacity of a child caused by inhumane acts or conduct;
 - (b) substantial impairment of physical well-being as evidenced by lack of adequate nutrition and medical care;
 - (c) actual or attempted sexual abuse;
 - (d) substantial physical pain;
 - (e) serious bodily injury resulting in physical disfigurement;
 - (f) substantial impairment of the functions of a bodily member or
 - (g) injury which may result in death.
 - (j) "Minister" means the Minister for that time being responsible for Community Affairs.

Administration

Probation and Child Welfare Board.

- 3.(1) The Probation and Child Welfare Board is established by this Act.
- (2) The Schedule has effect with respect to the constitution of the Board and otherwise in relation thereto.

Duty to report child abuse cases.

4. It shall be the duty of all doctors, nurses, social workers, police officers, teachers, child care providers, child psychologists, guidance counsellors and such other persons as the Board may determine, to report to the Board all cases and suspected cases of child abuse coming to their attention.

Functions and powers of Board

5. The functions and powers of the Board are -

- (a) to provide and maintain child care centres for children in need of care and protection,
- (b) to provide counselling and other services-
 - (i) for children in need of care and protection, and
 - (ii) for the parents and guardians of those children,
- (c) to place children in foster homes,
- (d) to supervise foster children and foster parents,
- (e) to receive reports of all cases and suspected cases of child abuse, to investigate those reports and to provide where appropriate copies of reports and investigations to the Attorney General, the Commissioner of Police and the Director of Public Prosecutions,
- (f) to take into custody in a child care centre for a maximum of twenty-eight days victims of child abuse and children in need of care and protection or in imminent danger to their life or health without having to apply to the court, and may enter any house, building or other place for such purpose, and
- (g) such other functions as the Minister directs.

6.(1) In this section,

"parent", except in subsection (2)(a), includes a guardian; and

"parental rights and duties" means the rights and duties that by law a parent has in relation to a child, but does not include the right to consent or withhold consent to the making of an order under the Adoption of Children Act.

(2) The Board may apply to the High Court to have the parental rights and duties in relation to a child in the care of the Board vested in the Board where

- (a) the parents of the child are dead and he has no guardian, or
- (b) the parents of the child
 - (i) have abandoned him, or
 - (ii) suffer from a mental or physical disability, whether permanent or not, that renders them incapable or unfit to have the care of the child,
 - (iii) are of such habits or mode of life as to be unfit to have the care of the child, or
 - (iv) have so consistently failed without reasonable cause to discharge their parental rights and duties as to make them unfit to have the care of the child.

(3) In making a determination under this section the judge must have regard -

- (a) to the interests of the child, and
- (b) any other matter the judge considers appropriate.

(4) The parental rights and duties of the Board in respect of a child cease where -

- (a) an adoption order is made in relation to the child, or
- (b) the court makes an order respecting the guardianship of the child.

(5) Where a child has been in the care of the Board for at least twelve months and during that time the whereabouts of the parents of the child remained unknown, or the parents are of such habits or mode of life as to be unfit to have the care of the child then, for the purposes of this section, the parents shall be deemed to have abandoned the child.

(6) Subsection (5) applies, whether or not the child was in the custody of the Board before the commencement of this Act.

(7) Any parent may request the Board in writing to bring any proceedings under this Act or under the Juvenile Act and where the Board fails or refuses to act within twenty-eight days after the request such parent may apply to the Juvenile Court for any order that the Court may direct.

7.(1) Subject to this Act, the Board with the approval of the Minister may appoint such officers and other employees as are necessary for the proper performance of its duties under this Act.

(2) The Board may not, without the prior approval of the Minister,

- (a) assign a salary in excess of such sum as the Minister determines and notifies in writing to the Board in respect of any office established by the Board, or
- (b) appoint a person to an office established by the Board to which a salary is assigned by the Minister under paragraph (a).

(3) The Board shall with the approval of the Minister appoint a sufficient number of persons qualified by character, training and experience, to be probation officers who shall perform such duties as may be assigned to them under this Act and in addition function as

- (a) probation officers under the Juvenile Act, Chapter 39,
- (b) advisers on the suitability of offenders for community service under the Juvenile Act, Chapter 39 and the Magistrate's Code of Procedure Act, Chapter 46,
- (c) welfare officers in Divorce, Maintenance, Guardianship, Custody and Affiliation proceedings and submit such reports as may be required,
- (d) guardians ad litem in proceedings under the Adoption of Children Act, Chapter 322 to safeguard

the interests of the child and to provide the court with such report, information or recommendation as the court directs,

- (e) school attendance officers under the Education Act, 1975,
- (f) supervisors under the Probation of Offenders Act, Chapter 63.

Foster Care

Foster parent.

8.(1) A person who wishes to be appointed a foster parent shall make application to the Board who shall respond within three months of the receipt of such application.

(2) Notwithstanding subsection (1) where a person receives a foster child in an emergency the person shall, not less than seven days after receiving the child, give written notification to the Board of the fact.

(3) A person who at the commencement of this Act is maintaining a foster child shall, within one month after the commencement of this Act, give the Board notice of the fact.

Life Insurance

9. For the purposes of any law relating to life insurance, a foster parent has no interest in the life of a foster child.

Leaving foster care.

10. Where a foster child

- (a) leaves a foster home, or
- (b) is unlawfully taken from a foster home,

the foster parent shall immediately notify the Board.

Agreement.

11. (1) The parent of a child may enter into an agreement with the Board -

- (a) for the placing of the child into the care and protection of the Board,
- (b) for the supervision of the child by the Board, or
- (c) for the provision by the Board of services required to meet the special needs of the child.

(2) An agreement referred to in subsection (1) may be for a period of six months or such longer period as the Board and the parent consider appropriate.

(3) An agreement under this section expires on the eighteenth birthday of the child.

(4) Notwithstanding subsection (3) where a child is mentally or physically handicapped or is otherwise incapacitated an agreement under this section may be for such period as the Board and the parent consider appropriate to

the needs of the child.

Registration of private child care centre

Private child care centre

12. In this Act,

- (a) "private child care centre" means a child care centre provided and maintained by a person other than the Board or the Government; and
- (b) "proprietor" in relation to a private child care centre means any person who maintains the centre.

Registration

13.(1) Subject to this Act, no person shall keep a private child care centre unless it is registered under this Act.

(2) For the purposes of this Act, the Board shall keep a register to be known as the. Register of Private Child Care Centres, in which must be entered

- (a) the names of Private Child Care Centres registered under this Act, and
- (b) such particulars relating to private child care centres as the Board prescribes.

(3) An application under this Act for registration of a private child care centre

- (a) must be made by or on behalf of the proprietor,
- (b) must be made in the prescribed form, and
- (c) must contain such particulars and be accompanied by such documents as the Agency prescribes.

(4) The Board may, on receipt of an application under this section, require the applicant to furnish such additional information and particulars as the Board considers relevant to the application, and the applicant must comply with the request.

Requirements of registration

14.(1)The Board shall, as soon as practicable after it receives an application for the registration of a private child care centre, inspect the centre.

(2) Where the Board is satisfied that a private child care centre meets the prescribed requirements the Board shall register the centre.

Cancellation of registration.

(3) Where the Board registers a private child care centre it shall, in writing, notify the applicant that the centre is registered.

(4) Registration of a private child care centre is subject to any condition the Board specifies.

(5) The Board may not register a private child care centre that does not meet the requirements for registration.

(6) Where the Board refuses to register or cancels the registration of a private child care centre the Board shall, in writing,

- (a) notify the applicant or proprietor of the refusal or cancellation, as the case may be, and of the reasons therefor, and
- (b) inform the applicant or proprietor that he has a right of appeal under section 16.

15.(1) The Board may, at any reasonable time inspect private child care centres.

(2) The Board may cancel the registration of a private child care centre where this Act or the regulations are contravened in relation to the centre,

(3) Section 14(5) apply *mutatis mutandis* to this section.

Appeal.

16.(1) Where the Board

- (a) refuses to register a private child care centre, or
- (b) cancels the registration of a private child care centre,

the applicant or proprietor of the centre may appeal to the Minister against the refusal or cancellation, as the case may be.

(2) An appeal under subsection (1) must be filed within one month after the refusal or cancellation of registration or such further period as the Minister allows.

(3) A decision of the Minister under this section is final.

Financial

Expenses

17. The expenses of the Board are to be defrayed out of

- (a) moneys voted by the National Assembly for the purpose,
- (b) moneys becoming payable to or vested in the Board, and
- (c) gifts to the Board from any person, organisation or body.

18. The Board shall apply its moneys for

- (a) the payment of its officers and employees,
- (b) the maintenance of its child care centres,

- (c) the making of grants to private child care centres, and
- (d) such other purposes as are necessary for the performance of its functions under this Act.

Accounts

19.(1) The Board shall keep proper accounts and records of its activities.

(2) The accounts of the Board must be audited annually by an auditor appointed by the Board with the approval of the Minister.

(3) The Director of Audit may, at all reasonable times and shall, on the direction of the Minister, carry out at any time an investigation into the accounts of the Board.

Report.

20.(1) The Board shall as soon as practicable after the end of each financial year and in any event not later than six months after the end of the year, submit to the Minister a report containing, in respect of the Board,

- (a) a detailed account of its activities during the preceding financial year; and
- (b) a statement of its audited accounts.

(2) Copies of the report and statement of accounts referred to in subsection (1) shall be laid in the National Assembly.

Miscellaneous

Regulations.

21. The Board may, with the approval of the Minister make regulations

- (a) respecting foster children, foster homes and foster parents,
- (b) respecting the fostering of children,
- (c) respecting the admission of children to and discharge of children from child care centres,
- (d) respecting the premises administration, management and staff of private child care centres,
- (e) respecting the fees payable in respect of children in the care and protection of the Board, and
- (f) prescribing anything that is authorised or required by this Act to be prescribed.

Offences

22.(1) A person is guilty of an offence who

- (a) personates a member of the Board or a member of the staff of the Board,
- (b) assaults, obstructs, insults or threatens any person referred to in paragraph (a) while that person is executing his duty under this Act,

- (c) fails to comply with section 10, or
- (d) contravenes section 13(1).

and is liable on summary conviction to a fine of one thousand dollars or imprisonment for twelve months or both.

(2) A person is guilty of an offence who

- (a) induces or attempts to induce a child
 - (i) to leave a child care centre or a foster home,
 - (ii) to remain away from or not to return to a child care centre or a foster home, or
- (b) detains or harbours a child who has left a child care centre or a foster home.

and is liable on summary conviction to imprisonment for two years .

Failure to report fostering.

23. Any person who contravenes section 8 is guilty of an offence and liable on summary conviction to imprisonment for twelve months.

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Speaker

Passed the National Assembly this 12th day of September 1994

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Clerk of the National Assembly