

Table of Contents

PREAMBLE.....	1
CHAPTER I.....	1
PRELIMINARY.....	1
Short Title, Commencement and Extent.....	1
Repeal and Saving.....	1
CHAPTER 2.....	2
PRINCIPLES AND OBJECTIVES.....	2
Principles and Objectives.....	2
CHAPTER 3.....	3
PRE-ADOPTION PROCESS AND SERVICE PROVIDER.....	3
Authority to provide adoption services.....	3
Application for accreditation.....	3
Accreditation.....	4
Revocation of accreditation.....	4
Counseling services.....	5
Location of unknown parent.....	5
CHAPTER 4.....	5
DOMESTIC ADOPTION PROCESS.....	5
Who may adopt.....	5
Who may be adopted.....	6
Adoption plan.....	6
CHAPTER-5.....	7
INTER-COUNTRY ADOPTION.....	7
Jurisdiction and Authority.....	7
Who may adopt.....	7
Who may be adopted.....	7
CHAPTER 6.....	8
CONSENT TO ADOPTIONS.....	8
Consent of parent and guardian.....	8
Opinion and wishes of a child.....	8
Form of consent.....	8
Defective consent.....	9
Revocation of consent.....	9
CHAPTER 7.....	9
ADOPTION PROCEDURE AND ORDERS.....	9
Jurisdiction and Authority.....	9
Application for inter-country adoption.....	9
Application for domestic adoption.....	10
Hearing.....	10

Adoption orders.....	11
CHAPTER 8.....	11
EFFECT OF ADOPTION ORDER	11
Effect of adoption orders.....	11
Effects of adoption order as regards property	12
Effects of adoption order as regard maintenance cost.....	12
CHAPTER 9.....	12
OFFENCES	12
Receipt of payment.....	12
Unauthorized advertising	12
False statement	12
Impersonation.....	13
Forgery	13
Undue influence	13
Improper witnessing of consent	13
CHAPTER 10.....	14
AMENDMENT, AUTHORITATIVE TEXT & DEFINITIONS	14
Amendment	14
Authoritative text.....	14
74. Definition:	14

ADOPTION BILL OF BHUTAN, 20////

PREAMBLE

WHEREAS, it is expedient that for the full and harmonious development of a child's personality, a child must grow up in a family and social environment of love, care and happiness;

AND WHEREAS, it is envisioned and deemed necessary to take appropriate measures to ensure that the adoptions are made in the best interests of the child and provide for procedure and mechanism to facilitate monitoring the well-being of child and to prevent abduction, sale or trafficking in children;

BE, it enacted by Parliament of Bhutan on.....Day of theYear of the Bhutanese Calendar, corresponding to.....Month, 200/ as follows.

CHAPTER I PRELIMINARY

Short Title, Commencement and Extent

1. This Act shall:
 - (a) Be called the **ADOPTION ACT OF BHUTAN**;
 - (b) Come into force in the year of.....; and
 - (c) Extend to whole of the Kingdom of Bhutan or otherwise within the jurisdiction of Bhutan.

Repeal and Saving

2. The provisions of any laws, Acts, regulations, rules, directives, notifications, circulars and enactments that are inconsistent with this Act shall hereby be repealed. However, the adoption effected before the commencement of this Act shall continue to have force under this Act.

CHAPTER 2

PRINCIPLES AND OBJECTIVES

Principles and Objectives

3. The best interest and continued well being of the child shall be the primary consideration for adoption and a child shall have the right to express ones own views concerning adoption.
4. The child's age, maturity, level of understanding, sex, background and the family relationship shall be the basis for adoption.
5. During the course of adoption, the child shall be protected from physical or psychological harm caused, or that may be caused, by being subjected or exposed to abuse, ill-treatment, violence or other behaviors.
6. An inter-country adoption may be considered only as an alternative means for a child, for whom a suitable adoptive parent cannot be found in the country.
7. It shall be the State policy to safeguard and prevent the child from unnecessary separation from biological parents.
8. Ensure measures necessary for the protection of child's interest including child's ethnic, religion, cultural and linguistic background of every adoption.
9. The objectives of this Act are:
 - (a) To ensure that adoption takes place in the best interest of the child with respect to ones fundamental rights as recognized under the laws;
 - (b) To establish uniform adoption process; and
 - (c) To ensure that the domestic and inter-country adoption processes are in consonance to international norms, practices and standards.

CHAPTER 3

PRE-ADOPTION PROCESS AND SERVICE PROVIDER

Authority to provide adoption services

10. The National Commission for Women and Children shall be the competent authority under this Act.
11. The competent authority shall provide adoption services of all nature with respect to a child, and may accredit Civil Society Organization and such other charitable and non-profit organizations to provide adoption services.
12. The competent authority shall be responsible for the following:
 - (a) Assess and determine suitability of prospective adoptive parent;
 - (b) Transfer of the care responsibility of a child to the adoptive parent or to a person who adopts the child;
 - (c) Provide post adoption monitoring and evaluation through an established procedure;
 - (d) Accredite and monitor recognized agencies and institutions of adoption both within and outside the country;
 - (e) Provide adoption service in relation to domestic and inter-country adoption of a Bhutanese child;
 - (f) Frame necessary rules and procedure for adoption;
 - (g) Determine the form and contents of the application for inter-country adoption;
 - (h) Prescribe adoption and other fees for domestic and inter-country adoptions;
 - (i) Assist other concerned agencies and the courts in the implementation of this Act; and
 - (j) Provide for any other services to facilitate implementation of this Act.

Application for accreditation

13. A charitable or non- profit organization and other civil society organization may apply to the competent authority for accreditation as an adoption service provider that may provide adoption services.

14. An application for accreditation shall:
 - (a) Be in writing;
 - (b) Specify address of the principal office in Bhutan;
 - (c) Specify the principal officer of the organization if accredited; and
 - (d) Provide the details of services the organization seeks to provide.

15. An application for accreditation under Section 14 shall be submitted along with the following documents:
 - (a) A copy of the articles of association;
 - (b) Evidence of the applicant's capacity to provide such services;
 - (c) A working plan of such adoption services;
 - (d) A financial statement of such charitable or non-profit organization evidencing its financial capacity; and
 - (e) Documents and evidences in relation to the person responsible for general administration in the event such organization is accredited by the competent authority.

Accreditation

16. The competent authority is required to determine an application for accreditation by accrediting adoption service providers that may provide adoption services, or refuse accreditation.

17. If the competent authority accepts accreditation of the organization under Section 16, the authority may by notification authorize the service provider to provide such services.

18. The accredited organization is required to appoint a principal officer for the purpose of this Act, if the application is granted by the competent authority, such principle officer must at least have one year experience in child welfare administration and with required qualifications in social administration, psychology or sociology to perform the duty of assessing the adoption suitability of a child and the applicant.

19. The competent authority shall in writing specify to the principal officer of that service provider necessary conditions to be complied with upon accreditation.

Revocation of accreditation

20. The competent authority may at any time revoke or suspend the accreditation of an adoption service provider if there exists reasonable ground to believe such service provider contravenes the provisions of this Act or otherwise believe that its institutional capacity is not commensurate to its role.

21. The revocation or suspension shall be by notice in writing given to the principal officer of that service provider.
22. The competent authority shall publish such notice of suspension or revocation of service provider in the media.
23. The revocation of accreditation shall take effect immediately after the notice is served to the principal officer of the service provider.

Counseling services

24. The competent authority or accredited agency shall provide pre-adoption counseling services to the following:
 - (a) Biological parent on any decision to relinquish their child for adoption before the decision becomes irrevocable;
 - (b) Prospective adoptive parent to resolve possible adoption issues and to prepare them for effective parenting; and
 - (c) Prospective adoptee for understanding of the nature, effect and consequences of adoption.

Location of unknown parent

25. It shall be the duty of the child welfare officer appointed under the Child Care and Protection Act to make every possible effort to locate the biological parent and guardian. In the event such effort fails, the child may be recommended for adoption.

CHAPTER 4 DOMESTIC ADOPTION PROCESS

Who may adopt

26. Subject to this Act, an application for adoption may be made by a married couple.
27. Notwithstanding anything contained in Section 26, a single person may adopt a child, if the person is found suitable and agreeable to the conditions specified by the competent authority.
28. Any Bhutanese citizen, single or married of good moral character, financially secure, not convicted of a felony crime, capable of support and care for child may adopt a child.

Notwithstanding the above, a Bhutanese citizen may adopt a foreign child only if the Bhutanese citizen has resided in the country from which the child is to be adopted for more than twelve months, and is able to produce evidence that the primary reason for residing in that country was not for adoption.

29. The child may be adopted by the relative if there exists an established relationship between the child and the prospective adoptive relative, and the court is satisfied that the adoption order is in the best interest of the child.
30. A step parent or a family member may adopt, if the person has an established relationship with the adoptee, and the court is satisfied that it is in the best interest of the child.

Who may be adopted

31. Subject to this Act, the following person may be adopted:
 - (a) A child below eighteen years of age;
 - (b) A person of legal age if, prior to the adoption, said person has been consistently considered and treated by the adoptive parent as ones own child since minority;
 - (c) A child whose parent, guardian or adoptive parent have died; or
 - (d) Any other child that the competent authority has taken cognizance of being in difficult circumstances.

Adoption plan

32. A provision duly agreed to the adoption of a child shall be planned before the adoption is effected. Such plan may include the exchange of information with respect to child's medical background or condition, and any other matter relating to adoption of the child as prescribed by the rules made under this Act.
33. Without limiting the matters for which an adoption plan may be made, such plan may set out the ways in which the child is to be assisted to develop to a healthy and positive life including financial assistance and other assistance required by a child.

CHAPTER-5

INTER-COUNTRY ADOPTION

Jurisdiction and Authority

34. The High Court shall have the original jurisdiction to hear the matters concerning to inter-country adoption of a child.
35. For the purpose of this Chapter, the competent authority shall frame relevant policy for the purposes of implementing the provisions of this Chapter to ensure that a child is protected from exploitation, abuse, trafficking, sale or any other practices in connection with adoption which is harmful, detrimental, or prejudicial to the child.

Who may adopt

36. A Bhutanese child may be adopted by any foreign national of a country with whom Bhutan has diplomatic relationship or by a Bhutanese citizen permanently residing abroad if the person:
 - (a) Is at least twenty five years of age at the time of filing an application for adoption;
 - (b) Is married, the couple shall jointly file for the adoption;
 - (c) Has the capacity to act and assume all rights and responsibilities of parental authority under ones national laws;
 - (d) Is not convicted of a crime involving moral turpitude or other offences;
 - (e) Is eligible to adopt under ones national law;
 - (f) Pay adoption and other fees;
 - (g) Undertakes to provide inheritance to the adopted child; and
 - (h) Is in a position to provide the proper care and support and to give necessary moral values to the child adopted.
37. Notwithstanding anything contained in Section 36, a single foreign national may adopt a child, if the person is found suitable and agreeable to the conditions specified by the competent authority.

Who may be adopted

38. Subject to this Act, the person mentioned under Section 31 may be adopted.

39. The High Court may not entertain such application if the court is of the view that it is not in the best interest of the Bhutanese child.

CHAPTER 6

CONSENT TO ADOPTIONS

Consent of parent and guardian

40. The court shall not make an adoption order in relation to a child who is less than 18 years of age unless consent has been given:
- (a) In the case of a child who has not been previously adopted by parent of the child, and any person who has parental care and responsibility for the child; or
 - (b) In the case of a child who has previously been adopted by adoptive parent or person who has parental care and responsibility for the child.
41. No person shall give consent for adoption until the child attains six months of age except after birth of the child, the biological mother dies or where exceptional circumstances exist.

Opinion and wishes of a child

42. The court shall not make an adoption order in relation to a child who is less than 18 years of age and who is capable of giving consent unless:
- (a) The child has been counseled;
 - (b) The opinion has been given freely without false promise, coercion, or inducement by payment or compensation of any kind; and
 - (c) The opinion and wishes of the child has been taken into consideration by way of securing child's rights.

Form of consent

43. Consent for the purposes of this Act shall be evidenced by an instrument of consent in accordance with the prescribed form signed by the person giving the consent.
44. Consent to adoption may also be given by the competent authority provided that child has been kept under the care and protection of the authority before the child is adopted.

45. The signing of the instrument of consent must be witnessed by an independent and competent person.

Defective consent

46. Consent shall be considered defective if obtained by fraud, duress, or other improper means, where the instrument of consent has been altered without authority, or the instrument of consent was signed before the birth of a child.

Revocation of consent

47. The consent for adoption may be revoked by notice in writing to the competent authority or the Court before the adoption order has been issued.

CHAPTER 7 ADOPTION PROCEDURE AND ORDERS

Jurisdiction and Authority

48. No court except High Court of Bhutan shall accept an application for inter-country adoption.
49. The Dungkhag or Dzongkhag court shall have the original jurisdiction to hear the matters concerning domestic adoption.

Application for inter-country adoption

50. Adoption application for inter-country shall only be filed by the competent authority and such application shall be supported by the following documents:
- (a) Birth Certificate of applicant;
 - (b) Passport copies and passport size photographs of adoptive parent and recent postcard-size pictures of the applicant and ones immediate family;
 - (c) Marriage contract, if married, and divorce decree, if applicable;
 - (d) Written consent of the parent or guardian;
 - (e) Written agreement between a biological parent or guardian and adoptive parent;
 - (f) Home study by a recognized organization in home country;
 - (g) Medical fitness certificate of the adoptee parent;
 - (h) Documents showing the financial capability of the applicant;
 - (i) Annual financial statements on income earned;

- (j) Character reference from the local authority, the applicant's employer or from the member of the immediate community who have known applicant for at least five years;
- (k) Certification that once the adoption process is completed, the child will become a full fledged citizen of the country one is being adopted into, accorded all rights and privileges as others citizens;
- (l) Certification that once the adoption process is completed, the child as a member of the family will be accorded same rights and privileges as a biological child including rights to inheritance;
- (m) Certification that progress reports on the child carried out by a certified and recognized organization; and
- (n) Any other necessary document that competent authority and the court may require.

Application for domestic adoption

51. An application for domestic adoption shall be filed by the competent authority and such application shall be supported by the following documents:
- (a) Birth Certificate;
 - (b) Citizenship Identity card or any other proof of citizenship or residency of the adoptive parent and child's parent and guardian;
 - (c) Recent pass port size photographs of both the child and the adoptive parent
 - (d) Written consent of the parent or guardian;
 - (e) Written agreement between a biological parent or guardian and adoptive parent;
 - (f) Letter of undertaking from the adoptive parents to give share of inheritance to the adoptive child;
 - (g) A letter recommending adoption issued by the competent authority or by the child welfare officer; and
 - (h) Any other necessary document that competent authority and the court may require.

Hearing

52. All parties to the adoption whether domestic or inter-country shall personally be present during the Court hearing.
53. The preliminary hearing may be held by the court after the petition for adoption has been filed before an appropriate court at any time before the making of an adoption order.
54. The court may issue any interim order after the preliminary hearing in relation any matters pertaining to adoption.

55. An interim order in relation to a child ceases to have effect on the making of an order for the adoption.

Adoption orders

56. The court shall not make an adoption order in relation to a child unless the court is satisfied that:
- (a) The best interests of the child will be promoted by the adoption; and
 - (b) The wishes and opinions of the child have been ascertained and respected.
57. The adoption order may also contain the discharge order of the child, including orders relating to:
- (a) The name of the child;
 - (b) The ownership of the property;
 - (c) The parental care and responsibility for the child; and
 - (d) Any other order as the Court deems fit.
58. The hearing and the reading of a court order concerning adoption of children under this Act shall be made *in camera*.

CHAPTER 8 EFFECT OF ADOPTION ORDER

Effect of adoption orders

59. An adoption order made by the court gives sole parental care and responsibility for a child to the adoptive parent named in the order and the child becomes the child of the adoptive parent.
60. For the purposes of this Act on adoption order being made:
- (a) The adopted child has the same rights in relation to the adoptive parent, as a child born to the adoptive parent;
 - (b) The adoptive parent have the same parental care and responsibility as the parent of a child born to the adoptive parent; and
 - (c) The adopted child ceases to be the child of the biological parent and the biological parent cease to be the parent of the adopted child.

- (d) The existing parental care and responsibility or guardianship for the adopted child ceases to have effect, and any previous adoption of the child shall also cease to have effect; and
- (e) The other children of the adoptive parent become the siblings of the adopted child.

Effects of adoption order as regards property

- 61. In the case of domestic adoption, section 57(b) does not have effect so as to deprive an adopted child of any vested or contingent property right acquired by the child before the making of the adoption order.
- 62. Notwithstanding anything contained in the Inheritance Act, the adopted child shall have right of inheritance in all respect to any property of the adoptive parent.
- 63. The adopted child shall have a right to visit and reside in Bhutan or be granted citizenship in accordance with the relevant laws in force if the child has to return to the country of origin under unavoidable circumstances.

Effects of adoption order as regard maintenance cost

- 64. The child shall cease to receive maintenance cost if the adopted child happens to be from that family whose marriage had been dissolved legally.

CHAPTER 9 OFFENCES

Receipt of payment

- 65. A person shall be guilty of the offence for receipt of payment, if the person receives any payment, reward, favour or consideration in relation to adoption or proposed adoption of a child. The offence of receipt of payment shall be a felony of fourth degree.

Unauthorized advertising

- 66. A person shall be guilty of the offence of unauthorized advertising, if the person publishes any prohibited adoption advertisement or any photograph of a child. The offence of unauthorized advertising shall be a petty misdemeanor.

False statement

67. A person shall be guilty of false statement, if the person whether orally or in writing gives a false statement knowingly for the purposes of, or in connection with a proposed adoption or any other matter under this Act. The offence of false statement shall be a misdemeanor.

Impersonation

68. A person shall be guilty of impersonation, if the person impersonates in the adoption process. The offence of impersonation shall be a misdemeanor.

Forgery

69. A person shall be guilty of presenting forged consent or other document, if a person presents, or causes to be presented, to the court in connection with an application for an order for the adoption, or recognition of the adoption, of a child under this Act a document:

- (a) Purporting to be an adoption document that the person knows is forged;
or
- (b) That bears any signature or certification that was obtained by fraud, duress, through inducement of monetary compensation or favours.

The offence of presenting forged consent or other document shall be a felony of fourth degree.

Undue influence

70. A person shall be guilty of undue influence, if the person uses or threatens to use any force or restraint to inflict any injury, causes or threatens to cause any detriment of any kind to, or exert any other undue influence on, a parent of, or person who has parental care and responsibility for, a child with a view:

- (a) To induce that parent or person who has parental care and responsibility to offer or refrain from offering the child for adoption under this Act, or
- (b) To influence the parent or person who has parental care and responsibility in the expression of any wishes contained in an instrument of consent for the adoption of a child, or
- (c) To induce to revoke a consent to the adoption of a child given by the parent or person having parental care and responsibility.

The offence of undue influence shall be a misdemeanor.

Improper witnessing of consent

71. A person shall be guilty of improper witnessing of consent, if the person subscribes ones name as witness to the signature of a person to an instrument of consent to the adoption of a child without:
- (a) Being satisfied that the person signing the instrument is a parent of, or person who has parental care and responsibility for, the child, and
 - (b) Being satisfied that the person signing the instrument is doing so free from any threat, inducement or influence of any kind; or
 - (c) Being satisfied that the instrument bears the date on which it is signed by the person giving the consent.

The offence of improper witnessing of consent shall be a misdemeanor.

CHAPTER 10

AMENDMENT, AUTHORITATIVE TEXT & DEFINITIONS

Amendment

72. Any addition, variation or repeal of this Act shall be made by Parliament.

Authoritative text

73. The *Dzongkha* text shall be the authoritative text, if there are .any difference in meaning between the *Dzongkha* and the English text.

74. Definition:

- (a) “Accredited adoption service provider” means an organization for the time being accredited by the National Commission for Women and Children.
- (b) “Accreditation notice” means notice given under this Act.
- (c) “Adopted person’ means a person an order for whose adoption was made under this Act by the Court.
- (d) “Adoption order” means an order for adoption of a child made or recognized under this Act.
- (e) “Adoption service” means arrangements, negotiation, arranging, assisting towards or with a view to the adoption of a child.
- (f) “Adoptive parent” means a person who becomes the parent of an adopted person by adoption.
- (g) “Parental care and responsibility” means all the duties, powers, responsibilities and authority which, by law, parents have in relation to children.
- (h) “Principal Officer’ means person specified as the principal officer of the accredited service provider.

